FOR MYSORE STATE

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HELA **(1954) Department.**

MS **SERIES.**

closed.
MRP
Supdt.

G.O. No. 2974
(Health)
25

Dated 4-11-1954

[Despatch Abstract.]

T-P – Udupi municipality – Central Ward
T-P. Scheme – Levy of betterment contributi
municipal councils' resolution no 16 dated
14-2-1953 – Objection dismissed

R.O.C.No.3965/49. Municipal Office, Udipi,
Dated 25-2-1953.

From
Sri K. Gopala Menon, B.A.,B.L.,
Commissioner,
Udipi Municipality, UDIPI.

To
The Secretary to Government,
Health Department,
Fort St. George, MADRAS.

Thro'
The Chairman, Municipal Council, Udipi.
The Director of Town Planning, Madras,
and
The Inspector of Municipal Councils & Local Boards, Madras

Sir,

Subject:- Madras Town Planning Act, 1920 - levy of betterment contribution-decision of the Council reducing the market values to those fixed by the Arbitrator under section 27(1)(d) of the Act - Report for action under section 36 of the Madras District Municipalities Act, 1920. — Sanction sought for.

Item 16 on the agenda of the Municipal Meeting held on 14-2-1953 was a set of appeals filed by 9 rate-payers of the Central Ward against the levy of betterment contribution on properties situated in the area of the Central Ward Town Planning Scheme sanctioned in G.O.No.1367-P, P.H., dated 24-5-1945 and published in part IA of the Fort St. George Gazette dated 3-7-1945. When this item came up for consideration, one of the Councillors, Sri M. Vittal Kamath, B.A.,B.L., moved a resolution that the Arbitrator's value shown in the statement attached to the agenda for the meeting be adopted. The resolution was seconded by Dr. K.L. Aithala, M.B. & B.S. When it was opposed by Sri A. Manjunatha Rao, the resolution was put to vote and declared lost by the second or casting vote of the Chairman. The appeals were then taken up for hearing one by one. The first two appeals were rejected again by the second or casting vote of the Chairman. The remaining seven appeals were all allowed and the market value of the properties covered by appeals was reduced to that fixed by the Arbitrator under section 27(1)(d) of the Madras Town Planning Act, 1920. The net result of the Council's decision will be that these properties will not be liable to betterment levy for 1952-53. -- A copy of Council's Resolution No. 16 dated 14-2-1953 is enclosed (Enclosure - 8).

2. It may be necessary for me to trace the background for the levy of betterment contribution on properties situated in the Town Planning area. As soon as the scheme came into force in July 1945, the Revenue Divisional Officer Coondapur Division, who was appointed as Arbitrator under the Town Planning Scheme conducted an enquiry, took evidence and passed orders on 25-5-1948 determining, with reference to the Claims made, the properties which were liable to the betterment contribution and estimating and recording their market value as on 15-12-1942, the date on which a notification under section 12 of the Town Planning Act, was published. With the sanction of the Government the levy and collection of betterment contribution was waived for three years, 1946-47, 1947-48 and 1948-49. Thus the actual levy of betterment contribution commenced with effect from 1-4-1949. The Commissioner fixed the market value as on 1-4-1949, which was two to three times the value fixed by the Arbitrator as on 15-12-1942 - (Of course that was the market value then and even now prevailing in the scheme area) - and issued notices. This gave rise to a wide spread agitation in the Ward against the levy and representations were made to the Government asking them to issue orders suspending execution of further works in the town planning area with a view to save the people of the ward from payment of betterment contribution. The Government in G.O.Ms.No.1436, Health, dated 25-4-1951, communicated a copy of the letter R.C.No.2862/50-A1 dated 17-3-1951 of the Director of Town Planning and called for the views of the Council on the suggestions made by the Director of Town Planning, in paras 5 & 6 of his letter. The Government also expressed their inability to agree to the proposal for the suspension of further works. The suggestions of the Director of Town Planning were considered in detail by the Town Planning Committee, which recommended that the revised schedule prepared on the basis of his suggestions be approved. The Council approved the revised schedule which was finally accepted by the Government and confirmed in G.O. Ms.No.2817, Health, dated 2-9-1952. According to the

schedule the cost of the Scheme is estimated at Rs.1,50,000/-. Out of this, a sum of Rs. 50,400/- has to be realised by way of betterment contribution during the period of 17 years. The proportion of the betterment contribution to be levied to the total cost of the scheme works out roughly at 1:3, and the annual levy will not exceed Rs. 3000/-. The market value of lands in the municipality as in other parts of the Country, was, no doubt, high. But the council considered that the increase generally was due to the conditions created by War and its after-effects. It therefore decided that only the increase in the market value due to the application of the Scheme should be taken into consideration for the purpose of betterment levy and not to take advantage of the post-war increased value. The Council, therefore, adopted the following principles in fixing the market value and decided the appeals for the years upto 1951-52 on those principles:-

(1) That there shall be a general increase of Rs.1000/- per acre over the market value fixed by the Arbitrator for 1942, for all lands liable to betterment contribution;

(2) That there shall be an increase of Rs.2000/- per acre over the market value fixed by the Arbitrator for lands abutting a newly formed road;

(3) That there shall be an increase of Rs.1250/- per acre over the market value fixed by the Arbitrator for lands abutting a widened road;

(4) That there shall be an increase of Rs. 1500/- per acre over the market value fixed by the Arbitrator for lands abutting a lane widened into a road;

(5) That there shall be an increase of Rs. 3000/- per acre over the market value fixed by the Arbitrator for lands abutting two newly formed roads.

The above principles being reasonable and fair, I adopted them as the basis for fixing the market value as on 1-4-1952 for the levy of betterment contribution. That only 9 out of

158 assessees appealed against the levy abundantly proves the reasonableness of the market value fixed by me. The income from the levy on the above basis comes to about Rs. 3000/- a year.

3. Apart from the facts submitted above, I consider that the resolution of the Council on the appeals was not only ultra vires but also arbitrary, unwise and passed in excess of the powers conferred on it by law for the following reasons :-

(a) The betterment contribution now levied is not sufficient to pay the annuity fixed in respect of the loan of Rs. 54000/- borrowed from the Government and invested on the scheme. Out of the total cost of the Scheme, a sum of Rs. 89,000/- is proposed to be met out of the general funds of municipality which comes to about Rs. 5250/- per annum. The financial condition of the municipality at present is not satisfactory to bear further burden. Viewed from this point, the decision of the Council to practically exempt the rate payers from the betterment levy, may have far reaching consequences on the finances of the Council.

(b) The present market value in the Scheme area has definitely increased on account of the application of the Scheme and formation of several roads contemplated in the Scheme. The present market value can in no circumstances be the one fixed by the Arbitrator as on 15-12-1942.

(c) By allowing time barred appeals and reducing the market value, the Council has contravened the provisions of Rule 63(3) of the Town Planning Rules.

(d) Some of the appellants had not asked for complete remission of the betterment contribution, but only prayed for some relief in the quantum of the contribution and one of the appellant has only prayed for the reduction of the market value to the one fixed by the Council for other similar cases in 1951-52.

(e) By practically exempting the lands from payment of betterment levy in the cases of 7 appellants, there will be invidious discrimination between them and those whose appeals have been rejected and those who have not appealed against the levy which is reasonable and fair as already submitted above.

4. The way in which the resolution was first moved and the way in which the appeals were disposed off without any regard to the nature of relief sought by the appellants and without seeing if the appeals were in time, shows that the policy of the majority for the day in the Council appears to be to set at naught the principles enunciated by the predecessor Council, to exempt the rate-payers from the payment of betterment levy and to create financial difficulties for the Municipality. If this policy is pursued, I have no doubt that the already strained finances will further be strained as the entire cost of the Scheme, including the repayment of loan to the Government raised for the purpose may have to be ultimately borne from the general funds and by other general rate-payers of the town who are in the least benefited by the Scheme. In other words the other general rate-payers of the municipality may have to deny themselves even the minimum amenities, roads to finance the Central Ward Scheme.

5. It is significant that one of the Councillors who has been bitter against the "snail's pace" progress made in the execution of the works in the Scheme area and who had an influencing voice in revising the schedule referred to in para 2 supra should have voted for the resolution of the Council practically exempting the appellants from the betterment levy. It is also significant to note that three of the Councillors, who were also members of the previous Council and therefore parties to the approval of the revised Schedule, should have now voted for the reduction of the market value to that fixed by the Arbitrator and thus exempted the appellants from the payment of betterment contribution. Copies of correspondence in the matter are submitted. (Enclosures - 4 to 7).

6. I may further bring to the notice of the Government that the Chairman and 7 Councillors out of 18 Councillors present at the meeting have submitted their minutes of dissent to the orders of the Council on the appeals, and they have been forwarded to the Collector as required by the rules. Copies of the minutes of dissent are also submitted (Enclosure 1 to 3). 117-12 wl

P3550 Pk 17

7. Under section 22 of the Madras District Municipalities Act, 1920, I am, as Executive Authority, bound to give effect to the decisions of the Council and refund the betterment tax collected from the appellants whose appeals have been favourably disposed of. But, in my opinion, the orders of the Council on the appeals are illegal and passed in excess of the powers conferred on the Council by law, demanding action under Section 36 of the Madras District Municipalities Act, 1920. I am therefore reporting this case to the Government as instructed in the opening para of G.O.No. 2449, L.A., dated 6-9-1941 for such orders and advice as they deem fit. W 3-4

K. Gopalakrishnan 26.2.53.
Commissioner.

Bks.

DZ 26.2.53

Forwarded to the Director of Town Planning.

2. I fully agree with the views expressed by the Commissioner in his above letter and opine that this is a fit case in which the Government will have to step in under section 36 of the Madras District Municipalities Act, 1920, and cancel the resolutions of the Council allowing the appeals and reducing the market value so as to exempt the properties from the liability to betterment contribution.

Municipal Office, Udipi,
Dated 26-2-1953.

U Sharada
Chairman,
Municipal Council, Udipi.

Bks.

L dis 824/53

Municipal Office, Udipi,
Dated 16-2-1953.

From

Sri U. S. Nayak,
Chairman, Municipal Council,
U D I P I.

To

The Collector of South Kanara,
MANGALORE.

Sir,

Appended hereto please find my minutes of dissent on the decision of the Council on item No. 16 of the agenda for the meeting held on 14-2-1953.

Yours faithfully,
U Nayak
Chairman.

APPENDIX.

Minutes of dissent by the Chairman.

Item 16 on the agenda for the meeting held on 16-2-1953 consisted of a set of appeals received from 9 rate payers against the levy of betterment contribution under the Town Planning Act. The way in which the resolution was arbitrarily moved by Sri M. Vittal Kamath, B.A.,B.L., Leader of the Congress party and seconded by Dr. K.L. Aithala shows, that the members of the Congress party taking advantage of their majority in the meeting, ~~clearly shows~~ that they had made up their mind to exempt the appellants from the betterment contribution by reducing the market value to the figures fixed by the Arbitrator in 1942 ~~xxx~~ evidently to gain cheap popularity at the cost of the municipal finances. But they were not successful in their attempt as the resolution was thrown out by the casting vote of the Chairman. Where they failed in passing such a resolution they succeeded with the vote of one of the independent members while deciding each appeal on hearing the appellants. The decision of the Council on appeals No. 3 to 9 are, in opinion, apposed to facts, rules, natural justice, equity and fair play for the following reasons among others :-

(1) The decision of the Council on each appeal practically and totally exempted the lands from payment of the betterment tax, which the land owners are, in fairness and law,

a portion of the cost of the scheme, as the benefit is accrued to their lands in more than one way. Such an exemption not only seriously affected the income of the municipality as taken credit in the Revised Estimate for 1952-53 and Budget Estimate for 1953-54, which was unanimously accepted and passed as recently as on 31-1-1953, but also, thrown the entire burden of inplementing the Scheme on all the general rate-payers of the Municipality who are in the least benefited by the Scheme.

(2) In my opinion provision of at least minimum amenities to the outlying and hitherto neglected areas of the Municipality should be the first charge on the revenues of the municipality than on special schemes for limited areas. The decision of the Council in effect starves these areas under the present financial condition and throws on them the additional burden of financing the Scheme.

(3) The Council by admitting the time-barred appeals and exempting the lands from betterment taxation has acted in excess of the powers conferred on it by law.

(4) The Council has also gone out of its way by reducing the market value of the lands to much lower figures than prayed for in the appeals.

(5) The very fact that, with exception of nine appellants, none of the rate payers appealed against the assessment shows that they have accepted the market value fixed by the Commissioner as fair and satisfactory.

In the circumstances explained above, I opine that the Council did not act wisely and in a responsible way. They seemed to have shown themselves interested more in the appellants than in the municipal administration. I am therefore unable to associate myself with the decision of the Council on the appeals referred to above and obliged to place on record these minutes of dissent.

Chairman,
Municipal Council, Udipi.

Bks.

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MUNICIPAL OFFICE 16 FEB 1953 UDIPI

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Udipi. 19

Dated 16th February 1953.

16.2.53 3 P.M.

To,

The Chairman,
Udipi Municipality
U D I P I.

Sir,

With reference to paper No.16 disposed of at the municipal meeting held on 14-2-1953, We the undersigned Municipal Councillors have the honour to submit our minute of dissent.

COLLECTOR SOUTH KANARA 19 FEB 1953

By reducing the market value to arbitrator's figures the Council has practically and totaly exempted the levy of Betterment Contribution, which will have far reaching financial consequences on the finance of the Municipality and on the general rate payers for the reasons the entire cost of the scheme is thrown on them. We are not prepared to accept this position since the council has failed to provide even the minimum amenities to the outlying and here hitherto neglected areas of the municipality. It is unfortunate that the Council has not taken this aspect of the question in -- deciding the matter.

Yours faithfully,

B. S. Acharya
K. Rama Rao.
P. V. Vyasa Rao
Vithal Shetty.
T. Chandranaga Shenai.
S. Raghuvama Shetty.

L.Dis.No. 807/53.

Forwarded to the Collector of South Kanara, Mangalore.

2. I fully agree with the views expressed in the abc minutes of dissent. In this connection the kind attention the Collector is invited to my minutes of dissent submitted with this office L.Dis.No.824/53 dated 16-2-1953.

Municipal Office, Udipi,
Dated 16-2-1953.

Chairman,
Municipal Council, Udipi.

Bks.

Udipi.
Dated 16th February 1953.

From,
A. Manjunath Rao,
Municipal Councillor.
U D I P I.

To,
The Chairman
Udipi Municipality,
U D I P I.

Sir,

With reference to paper No.16 disposed off at the Municipal meeting held on 14-2-1953, I have the honour to submit this my minute of dissent.

In dealing with the appeals the council seems to have been carried away by the intention of earning cheap popularity at the expense of the finances of the Municipality. In some cases the council has allowed and disposed off appeals in spite of the fact that they were time barred and irregular. In some of the cases the council has adopted the arbitrator's rates which are actually lower than the figures prayed for by the appellants. In others though the market value fixed by the Commissioner were reasonable to a large extent the Council has adopted the arbitrator's figures fixed as on 14-12-1942, though the present market value is much higher. This is substantiated by the fact that many of the tax payers in the same Central Ward have not appealed on the value fixed by the Commissioner, as they must have thought that the figures are reasonable. It may be noted that by adopting the arbitrator's figures the council has practically totally exempted the Betterment Contribution though the Municipality has actually made improvements by spending from the general funds at the expense of other Wards. Because of the fact that pretty large amounts from the general funds have been utilised for the Central Ward, the finances of the Municipality have been largely effected and thus preventing the possibility of improvements & providing many more needed amenities to other wards for some time. The Betterment Contribution levied on the basis of the Commissioner's figure is not sufficient to repay even the loan from the Government and invested on the acquisition of lands for the formation of Roads in the town planning area under the Scheme It is pertinent to point out in this connection that the Council with sanction of the Government has waived the recovery of Betterment Contribution for three years from the date of sanction of -

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the Scheme in 1945. Thus I have to draw the attention of the authorities of the great injustice done by the Council to the other Wards simply because the councillors wanted to earn cheap popularity and satisfy the irresponsible promises of some of the Councillors made during election. This is really unfortunate.

I request the authorities concerned to take immediate steps to correct the situation created by the -- resolution of the council on this paper in the interest of justice, equity and fairplay.

Yours faithfully,

16.2.53
Municipal Councillor
Udipi.

L.Dis.No. 823/53.

Forwarded to the Collector of South Kanara, Mangalore.

2. I fully agree with the views expressed in the above minutes of dissent. In this connection, the kind attention of the Collector is invited to my minutes of dissent submitted with this Office L.Dis.No.824/53 dated 16-2-1953.

Municipal Office, Udipi,
Dated 16-2-1953.

Chairman,
Municipal Council, Udipi.

Bks.

Very Urgent
W Ref. Ero. B3- 4286/53

Forwarded to the Rev. Divl. Officer, Coondapur for thorough enquiry and report.

2/- Copy of the proceedings of the ordinary meeting and the Special meeting on 14.2.1953 are also enclosed.

For Collector.

14.3.53

Copy of L.Dis. 824/53 dated 16-2-1953.

From Sri U.S.Nayak, Chairman, Municipal Council, Udipi.

To The Collector of South Kanara, Mangalore.

Sir,

Appended hereto please find my minutes of dissent on the decision of the Council on item No. 16 of the agenda for the meeting held on 14-2-1953.

Yours faithfully,
(Sd.) U.S. Nayak,
Chairman.

APPENDIX.

Minutes of dissent by the Chairman.

Item 16 on the agenda for the meeting held on 16-2-1953 consisted of a set of appeals received from 9 rate payers against the levy of betterment contribution under the Town Planning Act. The way in which the resolution was arbitrarily moved by Sri M.Vittal Kamath, B.A.,B.L., Leader of the Congress Party and seconded by Dr.K.L. Aithala shows that the members of the Congress party taking advantage of their majority in the meeting, that they had made up their mind to exempt the appellants from the betterment contribution by reducing the market value to the figures fixed by the Arbitrator in 1942 evidently to gain cheap popularity at the cost of the municipal finances. But they were not successful in their attempt as the resolution was thrown out by the casting vote of the Chairman. Where they failed in passing such a resolution they succeeded with the vote of one of the independent members while deciding each appeal on hearing the appellants. The decision of the Council on appeals No. 3 to 9 are, in opinion, opposed to facts, rules, natural justice, equity and fair play for the following reasons among others:

(1) The decision of the Council on each appeal practically and totally exempted the lands from payment of the betterment tax, which the land owners are, in fairness and law, liable to bear a portion of the cost of the scheme as the benefit is accrued to their lands in more than one way. Such an exemption not only seriously affected the income of the municipality as taken credit in the Revised Estimate for 1952-53 and Budget Estimate for 1953-54, which was unanimously accepted and passed as recently as on 31-1-1953, but also thrown the entire burden of implementing the Scheme on all the general rate-payers of the Municipality who are in the least benefited by the Scheme.

(2) In my opinion provision of at least minimum amenities to the outlying and hitherto neglected areas of the Municipality should be the first charge on the revenues of the municipality than on special schemes for limited areas. The decision of the Council in effect starves these areas under the present financial condition and throws on them the additional burden of financing the Scheme.

(3) The Council by admitting the timebarred appeals and exempting the lands from betterment taxation has acted in excess of the powers conferred on it by law.

(4) The Council has also gone out of its way by reducing the market value of the lands to much lower figures than prayed for in the appeals.

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(5) The very fact that, with exception of nine appellants none of the rate payers appealed against the assessment shows that they have accepted the market value fixed by the Commissioner as fair and satisfactory.

In the circumstances explained above, I opine that the Council did not act wisely and in a responsible way. They seemed to have shown themselves interested more in the appellants than in the municipal administration. I am therefore unable to associate myself with the decision of the Council on the appeals referred to above and obliged to place on record these minutes of dissent.

------ (Sd.) U.S.Nayak,
Chairman, U.M.C.

Enclosure 2.

From A. Manjunath Rao, Municipal Councillor, Udipi.

To The Chairman, Udipi Municipality, Udipi.

Letter dated 16th February 1953.

Sir,

With reference to paper No. 16 disposed off at the Municipal meeting held on 14-2-1953, I have the honour to submit this my minute of dissent.

In dealing with the appeals the Council seems to have been carried away by the intention of earning cheap popularity at the expense of the finances of the Municipality. In some cases the council has allowed and disposed off appeals in spite of the fact that they were time-barred and irregular. In some of the cases the council has adopted the arbitrator's rates which are actually lower than the figures prayed for by the appellants. In others though the market values fixed by the Commissioner were reasonable to a large extent the Council has adopted the arbitrator's figures fixed as on 14-12-1942, though the present market value is much higher. This is substantiated by the fact that many of the tax payers in the same Central Ward have not appealed on the value fixed by the Commissioner, as they must have thought that the figures are reasonable. It may be noted that by adopting the arbitrator's figures the council has practically totally exempted the Betterment contribution though the Municipality has actually made improvements by spending from the general funds at the expense of other Wards. Because of the fact that pretty large amounts from the general funds have been utilised for the Central Ward, the finances of the Municipality have been largely effected, and thus preventing the possibility of improvements and providing many more needed amenities to other wards for sometime. The Betterment contribution levied on the basis of the Commissioner's figure is not sufficient to repay even the loan from the Government and invested on the acquisition of lands for the formation of Roads in the town planning area under the Scheme. It is pertinent to point out in this connection that the Council with sanction of the Government has waived the recovery of Betterment Contribution for three years from the date of sanction of the Scheme in 1945. Thus I have to draw the attention of the authorities to the great injustice done by the Council to the other Wards simply because the councillors wanted to earn cheap popularity and satisfy the irresponsible promises of some of the Councillors made during election. This is really unfortunate.

I request the authorities concerned to take immediate steps to correct the situation created by the resolution of the Council on this paper in the interest of justice, equity and fairplay.

Yours faithfully,
(Sd.) A.Manjunath Rao,
Municipal Councillor, Udipi.

L.Dis.No. 823/53.

Forwarded to the Collector of South Kanara, Mangalore.

2. I fully agree with the views expressed in the above minutes of dissent. In this connection, the kind attention of the Collector is invited to my minutes of dissent submitted with this Office L.Dis.No. 824/53 dated 16-2-1953.

Municipal Office, Udipi,
Dated 16-2-1953.

(Sd.) U.S. Nayak,
Chairman,
Municipal Council, Udipi.

Enclosure 3.

To The Chairman, Udipi Municipality, UDIPI.

Dated 16th February 1953.

Sir,

With reference to paper No. 16 disposed off at the municipal meeting held on 14-2-1953, we the undersigned Municipal Councillors have the honour to submit our minute of dissent.

By reducing the market value to arbitrator's figures, the Council has practically and totally exempted the levy of Betterment contribution, which will have far reaching financial consequences on the finance of the Municipality and on the general rate payers for the reason the entire cost of the scheme is thrown on them. We are not prepared to accept this position since the council has failed to provide even the minimum amenities to the outlying and hitherto neglected areas of the municipality. It is unfortunate that the Council has not taken this aspect of the question in deciding the matter.

Yours faithfully,
(Sd.) B.S. Acharya,
(Sd.) K.Rama Rao.
(Sd.) P.V. Vyasa Rao
(Sd.) M.Vittal Shetty.
(Sd.) M.Panduranga Shenoi
(Sd.) I. Raghurama Shetty

L.Dis.No. 807/53.

Forwarded to the Collector of South Kanara, Mangalore.

2. I fully agree with the views expressed in the above minutes of dissent. In this connection the kind attention of the Collector is invited to my minutes of dissent submitted with this Office L.Dis.No.824/53 dated 16-2-1953.

Municipal Office, Udipi
Dated 16-2-1953.

(Sd.) U.S. Nayak,
Chairman,
Municipal Council, Udipi.

Enclosure 4.

From Sri K.K.Pai, B.Com., Municipal Councillor, Kunjibettu, Udipi.
To The Chairman, The Udipi Municipality, Udipi.

Dated 9-8-1952.

Dear Sir,

Central Ward Town Planning Scheme.-

Execution of the Scheme - Formation of Roads - delay

Though the Central Ward Town Planning Scheme was brought into force in 1948, the progress made so far in executing the Scheme is not very satisfactory and the rate of progress too is unfortunately slow. Betterment contributions are being collected from 1948 onwards and as well know, the rate payers had been put to much hardship on account of the exhorbitant rate of betterment contribution fixed. No doubt your goodself and the other Councillors were kind enough to sympathise with the lot of the rate payers and you have always given me and the rate payers' co-operation to minimise their hardship by accepting the suggestions for reduced rates of betterment levy made by us at a meeting informally convened by me at the Office of the Southern India Apex Bank Limited, Udipi. Thanks to the good will of the Council, the rate payers' grievances have been partially reddressed.

When all this is said, it is expected that at least the scheme is pushed through as quickly as possible and the rate payers are convinced of the utility of the scheme and they get conveniences and comforts in return for their contributions. I do not see reasons why the scheme is proceeding at a snail's pace when we have funds to the credit of the Town Planning Fund only waiting to be utilised. Hardly four roads have been formed under the scheme and there are many more yet to be formed, some of which could be formed without much cost or difficulty. The roads formed are not metalled, with the result that they are not usable for vehicular traffic.

It is sad to reflect therefore that when on the one hand, whatever progress we have achieved is much below that which is desirable and which could have been achieved by this time, given special attention, on the other hand, what little work has beendone under the shceme is not efficiently completed but is left in disorder only to invite criticisms from rate payers and the public.

I have therefore to urge on you the necessity to have the office give special urgent attention to the execution of the works under the Central Ward Town Planning Scheme especially the formation of roads etc. so that not only the rate payers of the Central Ward and the rate payers in other wards and the general public may drive immense satisfaction from the improvement and the beautification of the town, but they may also be prepared to welcome or rather invite such townplanning schemes to their wards also in time to come.

I do not think it is advisable to take all the remaining 13 or 14 years permissible under the Town Planning Act, for the completion of this scheme, especially when we are not handicapped by finance, when all acquisitions necessary have been done except in one or two cases and the execution of the scheme does not confront us with any major obstacle or difficulty. What is required is that the Office should take this up as specially urgent and give their urgent attention to the speeding up of the completion of the scheme.

I earnestly wish that you will take up this matter and do whatever is possible to expedite the completion of the scheme in which task I assure you all my co-operation.

Looking forward to the outcome of this request,

I remain,
Yours faithfully,

(Sd.) K.K.Pai,
Municipal Councillor,
for-Central Ward, Udipi.

Enclosure

Copy of L.Dis.-4543/52 dated 26-8-1952.

From Sri U.S. Nayak, Chairman, Municipal Council, Udipi.

To Sri K.K.Pai, B.Com.(Bom.), Municipal Councillor, Udipi.

Sir,

Subject:- Central Ward-Town Planning Scheme - Execution of the Scheme - Formationof Roads - delay.

Ref:- Your letter dated 9-8-1952.

I have gone through your letter above referred to, and the relevant records. I fully agree with you that the work of forming roads should be executed as early as possible. But the main obstacle against taking up the works for execution is want of finances. It is true that therevis a balance of Rs. 13922-4-6 under capital account of the Town Planning Fund. This sum has been ear-marked for the acquisition of lands and buildings in the scheme area, the proposals for which have been submitted to the authorities concerned and I am afraid that is not possible to divert it for other purposes. The council may be called upon to deposit the sum with the Acquisition Officer at any time. No blame can therefore be attached to the Office for the "snail's pace" progress.

2. You say that betterment tax is being collected from the Central Ward rate payers without corresponding benefit. Owing to the reduction of the betterment taxes by the council, the amount now collected is just sufficient or not sufficient to repay the annual instalments of the loans raised from Government and invested on the acquisition of lands and buildings and on works so far executed. The council persuaded itself under inspiration from ward councillor themselves to throw the burden of major portion of the cost of the scheme on the general rate payers of the entire municipality without appreciable benefit to them. The financial position of the municipality at present is very bad despite levy of taxes at 22% of the annual rental value per annum. I am therefore of opinion that provision of minimum amenities at least to those outlying and hitherto neglected part of the municipal town should be the first charge on the general revenues of the municipality than on the special schemes sanctioned for limited areas. Any surplus of funds can and will be spent on the scheme.

3. I thank you sincerely for assuring me your co-operation in whatever action I may take in expediting the completion of the scheme. I fully reciprocate your sentiments and feelings.

Yours faithfully,
(Sd.) U.S. Nayak,
Chairman,
Municipal Council, Udipi

Enclosure 6.

From K.K.Pai, B.Com(Bom), Municipal Councillor, Kunjibettu, Udipi, S.I.

To The Chairman, Municipal Council, Udipi.

Dated 29-8-1952.

Sir,

Subject: Central Ward Town Planning Scheme - Execution of the Scheme - Formation of Roads - delay.

Ref:- Your letter L.Dis. 4543/52 of 26-8-1952.

I thank you for your letter of the 26th instant.

Regarding the first ~~xx~~ para of your letter, I have to state that the expenditure under Capital account of Town Planning Fund consists of such expenditure as:-

1) Acquisition of land and buildings,
2) Works of Improvement &
3) Other Miscellaneous expenditure.

A reference to the past budgets of the Council will show that it has been always possible to transfer some substantial amounts to the Capital Account after meeting Expenditure under Ordinary Account of the Town Planning Fund and that Capital Expenditure on works of improvement under Capital account of Town Planning Fund had been much more than what had been transferred from Account ordinary. It is therefore not correct to state that the balance under capital account of the Town Planning Fund cannot be touched. It had been touched formerly and it can be touched during the year also, if it is so desired.

As far as I learn from the Office, only one or two cases of acquisition of lands are pending completion and it is not necessary also to acquire these immediately. If the pending acquisitions can wait, there is no reason why the balance under Capital Account of the Fund cannot now be utilised for works of improvement to be replenished from receipts ordinary of the Town Planning Fund, - once the improvement works on hand are completed. The annual instalment of loans and interest etc. is fixed at Rs. 3720/- and the total expenditure ordinary amounts to some where around Rs. 6200/- yearly inclusive of loan repayments and there will be savings of nearly Rs. 3000/- annually which will be available for such works of impvoement.

It is not wise to form roads only to keep them unmetalled and to maintain them in such poor and bad condition as to be thoroughly useless for vehicular traffic and even for pedestrian traffic. Why not metal the roads already formed? The question of spending additional something from General Funds does not arise at all here for reasons above stated.

Perhaps the office has overlooked the fact that Capital Expenditure under Town Planning Fund for acquisition of lands and buildings is partly compensated by Capital Receipts also by sale proceeds of lands etc. and by way of Ordinary Receipts as rent andproduce on such lands. It is not correct therefore to say that all the balance in Capital account of the T.P.Fund will be required for acquisition of lands and buildings. It will be replenished no sooner than the acquisitions are completed. Even to-day, some buildings which are already acquired are rented out and Capital Receipts thereon by sale proceeds of tiles, timber, and other building materials thereof, are not taken into account. I want you to take this also into

consideration. It will amount to not less than a few thousands of rupees.

I maintain therefore (1) that the cost of works of improvement do not need our seeking contributions from the General revenues, (2) that the Town Planning Fund has enough balances to execute the works of improvement even after defraying the ordinary expenditure thereunder including repayment of loans and interest (3) that the pending acquisitions are not many and the cost of acquisitions pending will not require all the balance in the T.P. Fund (4) that the ordinary and Capital Receipts of the T.P.Fund will permit of taking up works of improvement in the T.P.Scheme area in Central Ward such as formation of new roads, metalling the roads already formed and building up drains along these roads.

It is needless for me to say that the scheme was mothered mainly by the office when the special Officer was functioning in the absence of an elected Council and not much option was left to the present elected Council to modify, revise and undo what had been already sanctioned and notified much as the rate payers of the Central Ward wished for the scheme to be dropped entirely. The times when the scheme was sponsored and the cost of the scheme was worked out were quite different from the hard times obtaining today when the scheme had been brought into actual execution. The scheme was badly planned and drawn up, and the present council has had no hand in the shaping of it. The scheme emanated from the office mainly and throughout it has been quite clear that the office had resisted all suggestions to improve, revise or modify the scheme. Having regard to all these facts I, as representing the rate payers of the Central Ward and with the cooperation of my colleague from that Ward as well as other rate payers, had to move in the matter to redress the grievances of the rate payers, their hardship caused by an unreasonable deamand of betterment tax made on them. The other councillors had been good enugh to see the fairness and justice of the rate payer's grievances represented to them and to pursuade themselves, under inspiration from me and my other colleague from the ward, as you have correctly put it, to lighten the burden of the rate payers of the ward, though it does not necessarily mean that any additional burden of cost which legitimately ought to be borne by the General revenues in as much as it contributes towards 50% of the salary and dearness allowance of the staff supposed to be employed for the sake of the T.P.Work but who are actually engaged most of the time of the year in works other than that connected with Central Ward Town Planning Scheme.

I ma/ alsodraw your attention to the fact that when I made inquiries as to why the work is not progressing fast, the reason given by the office was not the want of finances, but want of time to the P.W.Supervisor of the Municipality to survey the area and prepare estimates for the works. The latter difficulty I have appreciated, but the former was not then though of and is not very convincing even now.

I therefore maintain that if the office only gives a little more attention to this question and takes some earnest and sincere interest in executing the remaining works of improvement under the scheme, the progress can be rapid. Not given such attention and intere st, it will continue to be at a snail's pace, lack of finance apparently being put forward more as an excuse than as a justification.

Assuring you of my co-operation in whatever measures you

will take in the light of this letter.

I remain,
Yours faithfully,

(Sd.) K.K.Pai,
Municipal Councillor for Central Ward.

Enclosure & 7

From Sri U.S. Nayak, Chairman, Municipal Council, Udipi.

To Sri K.K. Pai, Municipal Councillor, Udipi.

L.Dis. 4966/52 dated 25-10-1952.

Sir,

Subject: Central Ward Town Planning Scheme - Execution of - Formation of roads - delay.

Ref:- Your letter dated 29-8-1952.

I am sorry, you have not persuaded yourself to appreciate the facts. Despite your assertions, untruths and half truths cannot and will not convert themselves into facts whatever line of reasoning you may adapt for the purpose. I do not therefore propose to deal with points raised in your letter cited above which are based more on imagination than on truth. I thank you again for your assurance of co-operation.

(Sd.) U.S.Nayak,
Chairman,
Municipal Council, Udipi.

Enclosure 8

Copy of Resolution No. 16 dated 14-2-1953 of the Municipal Council, Udipi.

Appeal petition received from the persons mentioned in the list enclosed against the order of the Commissioner fixing the market value of their sites as on 1-4-1952 in respect of the levy of the betterment contribution in the Central Ward Town Planning area for the year 1952-53.

RESOLUTION:

"Sri M.V.Kamath moves that the arbitrators valuation shown in the Statement attached to the agenda of to-days meeting be adopted. Dr.K.L.Aithal seconds it. Sri A.Manjunath opposed. Put to vote. 9 voted and 9 against. With the casting vote of the Chairman, the proposition was declared lost. Sri A.Manjunath Rao moved that the Commissioner's figures be adopted upto item 7. Sri M.Panduranga Shenoy seconds it. Sri P.V.Achar raises a point of order that the appeals must be considered ~~unfortunately~~ individually by hearing every appellant and any resolution by which the Council seeks to reject all appeals sue moto without even hearing the appellants is ultra vires and opposed to all rules of law and natural justice."

Ruling: It is fair every appellant should be heard and so the point of order is upheld and the motion of Sri A.Manjunath Rao is ruled out. Appellants were heard and appeals disposed off as per

37

21

appeal register. After the disposal of all appeals item by item Sri A. Manjunath Rao dissented. The Chairman dissents on appeals 5, 6 and 7.

(Sd.) U. S. Nayak,
Chairman,
Municipal Council, Udipi.

/TRUE COPIES/

K. Gopalakrishnaiah
26.2.53.
Commissioner,
Udipi Municipality, Udipi.

Bks.

26.2.53.

Enclosure to Item No. 16.

STATEMENT.

Appeal No.	Asst. No.	Name of the appellant.	S.No.	Extent in cents.	Market Value fixed by the Arbitration per acre.	Market Value fixed by the Commissioner as on 1-4-52.	Tax per year.	Market value fixed by the Council during previous years per acre.	Remarks.
					Rs.	Rs.	Rs.	Rs.	
1	131	The Canara Banking Corporation Ltd.	118-23	49	3200/-	4450/-	45-15-0	4450/-	
	129		118-3	19		4450/-	17-13-0	4450/-	
	134		118-1 & 2	61		4450/-	57-3-0	4450/-	
2.	192	Sri Shiroor Matt	116-7A	220	3000/-	4000/-	165-0-0	4000/-	
	197		116-12	14	3000/-	4000/-	10-8-0	4000/-	
3.	13	Sri Narayanaji	110/17	11½	3000/-	4500/-	12-15-0	4500/-	
4.	12	Sri T. Venkata Rao ..	110/7	46	3000/-	4500/-	51-2-0	4500/-	
5.	135A	Shet Nanalal Govindji Vaidya & Sons.	118/24A	13½	3200/-	4200/-	10-2-0	4200/-	
6.	153	Sri K. Sukumaran	118/20	1	3200/-	4450/-	0-15-0	4450/-	
	152		118/26	20	3200/-	4450/-	18-12-0	4450/-	
7.	155	The Canara Banking Corporation Ltd., Udipi.	113/1 & 18	7	3200/-	4200/-	2-10-0	4200/-	
			115/9 (Shivalli Village).	2	3000/-	4000/-	0-12-0	4000/-	
8.	153 C	Sri K. Ramakrishna Kedlaya	118-20	12	3200/-	7500/-	38-11-0	4200/-	
			118-26	16	3200/-	7500/-	51-9-6	5200/-	
9.	100	Sri U. Govindaraya Pai	120/32	28	3200/-	5700/-	52-8-0	4700/-	A new road abutting to this site has been formed.

Municipal Office, Udipi,
Dated 9-2-1953.

Commissioner.

R.O.C.No.3965/49.

Municipal Office, Udipi,
Dated 6-5-1953.

From
Sri K.Gopala Menon, B.A.,B.L.,
Commissioner,
Udipi Municipality, UDIPI.

To
The Secretary to Government,
Health Department,
Fort St. George, MADRAS.

Thro':

The Chairman, Municipal Council, Udipi
The Director of Town Planning, Madras,
The Inspector of Municipal Councils & L.Boards, Madras

26305

Sir,

Sub:- Town Planning - Madras Town Planning Act - Levy of Betterment Tax - report for action under Section 36 of the Madras District Municipalities Act - Sought for.

Ref:- This Office R.O.C.No.3965/49 dated 25-2-1953.

I request that Government may be pleased to pass early Orders on this Office reference cited above. This may kindly be treated as urgent.

K. Gopala Menon 7.5.53
Commissioner.

Forwarded,
Chairman,
Municipal Council, Udipi.
7-5-53

Bks.6.5.

Health Dept. Tsolum

The matter is under consideration with the Director of Town Planning

Yours truly

Dy Secretary to Govt

5/12/14 5753

To:

The Commissioner for Municipalities

Kohima

The Chairman, Municipal Council

Kohima

2

Health (T)

60/19.5.

Subj:- T.P. Rohtak Mkts - T.P Act - Levy of Betterment Tax - Report of action under Section 36 of the M.D.M Act

Ref:- Hon'ble Commr Rohtak Mkts Rec No 3965/29 dt 25/2/53 and 25.2.53

Memo 26305/53 I.T. Hdt 18/5/53

The O.T.P is requested to transmit the below mentioned Commr, Rohtak Mkts cited with his remarks, at an early date.

P.S.

4/5/53

I.T. Hdt 16/5/53

5.1.53

19/5/53

To
The O.T.P
Rohtak

Copy to the Commr, Rohtak Mkts (With E.M.C)

15/5/53

16.5.53

VR
18/5/53

NRP
16.5.53

28

Health Tax

Subj:- T.P. Madipakkam - T.P. Act -
Levy of Betterment Tax - Refund
for action under Section 36
of the M.D.M. Act.

- x x -

Ref Joint Memo No. 26305 T/53-1 Hlth dt
18.5.53

From
Sri K.G. Menon, I.C.S.,
Director of Town Planning,
Old High Court Buildings,
Ist Line Beach, M A D R A S. 1.

To
The Secretary to Government,
Health Department, Madras
Thro' the Inspector of Municipal
Councils and Local Boards, Madras

L.Dis No.2455/53-A-1 Dated:- 29--6--1953

Sir,

Subi- Town Planning - Levy of betterment contribution - Decision of the Municipal council reducing the market values to those fixed by the Arbitrator under section 27 (1) (d) of the Act - cancellation of the council's resolution - Recommended

36059

Ref:- 1. Letter Roc 3965/49 dated 25-2-53 of the Commissioner, Udipi Municipality to the Government
2. Government Memo No.26305/53-1-T-Health dated 18th May '53
3. Letter Roc No.18861/53-D3 dated 7-5-53 of the Inspector of Municipal Councils and Local Boards, Madras.

The file of papers received with the letter of the Inspector of Municipal Councils and Local Boards cited above and the letter R.C. 3965/49 dated 25-2-53 of the Commissioner, Udipi Municipality are retransmitted herewith with the following remarks:-

The Council's resolution 16 dated 14-2-53 allowing the appeals on the Arbitrator's decision and reducing the market value is not only ultra vires but also arbitrary, unwise and passed in excess of the power conferred on the municipal council by law. This department agrees with the remarks of the Commissioner and the Chairman in this regard and also endorses the recommendation of the Collector of South Kanara in his letter L.Dis No.4286/53 dated 13-3-53 and the Regional Inspector of Municipal Councils and Local Boards, Western Range, Coimbatore in his letter L.Dis No.9320/53 dated 16-4-53 and recommends that the council's resolution 16 dated 14-2-53 may be cancelled by the Government. The municipal council may also be advised to follow up the (principles in vogue) for the period prior to '52-53 and also to continue to levy the betterment contribution on the principles observed by the Regional Inspector of Municipal Councils and Local Boards.

G. Venkataramana Reddy
1.7.53.
FOR DIRECTOR OF TOWN PLANNING.

RT.30/6

Copy to the Secretary to Government, Health Department, Madras for information (Advance copy).

31
-47-

Hamilton File

24/1/8

Subj: T.P. Whitepit Lane - T.P. Act -
Survey & Betterment Fees -
Report for action under section
136 of the T.P. Act.

Ref: -

P.C.M.

from the D.T.P. Plan No. 24-55/53A-1
dt. 29.6.53

Memo No. 2630/5/T.P./53 - 1 - H - dt. 1/8/53
The Surveyor is requested to transmit,
within fourteen days, a copy of the
letter from the D.T.P. dated
submitted through him.

1/8/53

To
The Surveyor & Valuer

1-8-53

1/8/53

From

Sri K.G. Menon, I.C.S.,
Inspector of Ml.Cls & Local Boards, Madras-1.

To

The Secretary to Government,
Health Department, Madras.

12176

DEPUTY SECRETARY
5 AUG 1953
HEALTH DEPARTMENT

L.DIS.NO. 18861/53 dated 30--7--1953.

--

SUB:- MEETING..Udipi Municipal Council..Minute of dissent..levy of betterment contribution..cancellation of the resolution of the Municipal Council.

--

I forward herewith the letter L.Dis. 4286/53 dated 13.3.53 of the Collector, South Kanara District with its enclosures, letter L.Dis No.9320/53 dated 25.2.53 of the Regional Inspector, Western Range, Coimbatore, letter Roc.3065/49 dated 25.2.53 of the Municipal Commissioner, Udipi and the letter L.Dis. 2455/53 dated 29.6.53 of the Director of Town Planning, Madras.

I agree with the remarks of the Regional Inspector of Local Boards and the Director of Town Planning and recommend the cancellation of the resolution No.16 dated 14.2.53 of the Udipi Municipal Council.

FOR INSPECTOR.

ssraj.1.8.

3/8/53

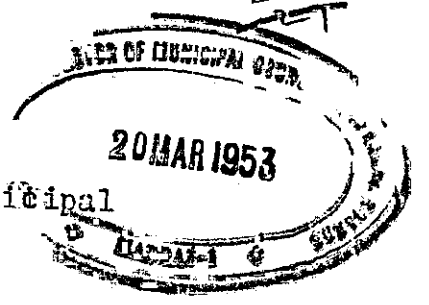
L.Dis. 4286/53

S.K.Collector's office,
Mangalore dated 13-3-1953.

From

Sri C.A.Ramakrishnan I.C.S.,
Collector of South Kanara,
Mangalore.

18861



To

The Inspector of Local Boards and Municipal Councils, M A D R A S

Sir,

SUB: MEETING: Municipal Council Udipi - Minutes of dissent on the decision of the council on item No.16 of the Agenda for the meeting on 14.2.1953. Forwarded.

*****

I enclose the letters L.Dis.823/53 dated 16.2.53 L.Dis. 824/53 dated 16.2.53 and L.Dis.807/53 dated 16.2.1953 received from the chairman, Municipal Council, Udipi for necessary action.

The facts stated by the chairman, and other councillo in respect of their minutes of dissent indicates that there is a prima facie case for thorough enquiry. The resolution has to be cancelled by the Government if the enquiry shows that the resolution was improper and against the public interests.

Yours faithfully

For Collector.

Encl:

mv 14.3.

C.F. 52—14,67,656—21-3-52.

25781

Local Administration Department

From (Name)
Sri Syed Muhammad,
Designation
Regional Inspector of Municipal Councils
Station and Local Boards, Western Range,
Coimbatore.

Received ____ Registered ____

To

The Inspector of Municipal Councils
and Local Boards,

Madras-1.

Enclosures: L.Dis No. 9320-53, dated 16-4-1953.

Sir,

SUB:-MEETING - Municipal Council, Udipi - South Kanara District - Dated 14-2-1953 - Minutes of dissent - Remarks - Submitted -

Ref:-Your Roc.18861/53 D3 dated 30-3-1953.

.....

I visited Udipi on 12-4-1953 and enquired into the matter.

2. The Municipal Commissioner, Udipi, has already addressed the Government through the Director of Town Planning in his letter Roc. No.3965/49 dated 25-2-1953 wherein he has traced the history of the Town Planning Scheme and has given all the facts and figures. A copy of the letter is enclosed. The total number of cases in which the betterment tax is levied is 158. Only nine out of the 158 assessees appealed. The reductions allowed are in the case of seven only. Some of the appeals are time-barred. In some cases, the request is for reduction and not for the entire exemption which is the effect of

P.T.O.

the Council's decision. The income expected from the levy of betterment contribution is Rs.3,000/- only per year. When out of Rs.1,50,000/- only Rs.50,400/- are to be met by the levy of betterment tax, there is no justification for foregoing even this income. The result of the reduction will be that for 1953-'54, almost all the persons may apply for reduction. There should be some uniform policy in all such cases. The invidious distinction cannot be made in the case of some persons only. The principles enunciated by the Council for the period prior to 1952-'53 are correct and the betterment contribution can be continued to be levied on those principles. The resolution of the Council so far as the seven items are concerned, will have to be cancelled.

3. The papers received with your reference read above are resubmitted.

for REGIONAL INSPECTOR.

ENCL:-

kca.16.4.

From,
Sri K.G. Menon, I.C.S.,
Director of Town Planning,
Old High Court Buildings,
Ist Line Beach, M A D R A S. 1.

To
The Secretary to Government,
Health Department, Madras
The Inspector of Municipa
Councils and Local Boards, Madra

L.Dis No.2455/53-A-1 Date 29--6--1953

43426

Sir,

Sub:- Town Planning - Levy of betterment-contribution - Decision of the Municipal council reducing the market values to those fixed by the Arbitrator under section 27 (1) (d) of the Act - cancellation of the council's resolution - Recommended

Ref:- 1. Letter Roc 3965/49 dated 25-2-53 of the Commissioner, Udipi Municipality to the Government
2. Government Memo No.26305/53-1-T-Health dated 18th May '53
3. Letter Roc No.18861/53-D3 dated 7-5-53 of the Inspector of Municipal Councils and Local Boards, Madras.

The file of papers received with the letter of the Inspector of Municipal Councils and Local Boards cited above and the letter R.C. 3965/49 dated 25-2-53 of the Commissioner, Udipi Municipality are retransmitted herewith with the following remarks:-

The Council's resolution 16 dated 14-2-53 allowing the appeals on the Arbitrator's decision and reducing the market value is not only ultra vires but also arbitrary, unwise and passed in excess of the power conferred on the municipal council by law. This department agrees with the remarks of the Commissioner and the Chairman in this regard and also endorses the recommendation of the Collector of South Kanara in his letter L.Dis No.4286/53 dated 13-3-53 and the Regional Inspector of Municipal Councils and Local Boards, Western Range, Coimbatore in his letter L.Dis No.9320/53 dated 16-4-53 and recommends that the council's resolution 16 dated 14-2-53 may be cancelled by the Government. The municipal council may also be advised to follow up the (principles in vogue) for the period prior to '52-53 and also to continue to levy the betterment contribution on the principles observed by the Regional Inspector of Municipal Councils and Local Boards.

G. Venkataramana Reddy
7.7.53.
FOR DIRECTOR OF TOWN PLANNING.

RT.30/6

Copy to the Secretary to Government, Health Department, Madras for information (Advance copy).

Health (T)

Sub: Town Planning – Tadipi Municipality – The Central ward T.P. Scheme – Levy of betterment contribution – Cancellation of Council's resolution.

Ref: From the Commr, Tadipi Mdy, Roc. 3965-49 dated 25-2-53

Memo No 26305-T/53-4 dt 2/9/53

In his letter cited the Commissioner, Tadipi Municipality has stated that by allowing time barred appeals and reducing the market value (of properties liable for betterment levy) the M.C. Council has contravened the provisions of rule 63(3) of the M.T.P. Rules. The attention of the Commissioner is

is invited to the proviso to the said rule and he is requested to state whether the nine property owners who appealed to the M.L. Council against the betterment levy preferred their appeals within 30 days from the prescribed time, giving reasons for the delay in submitting the appeals, and whether the M.L. Council was satisfied with the reasons, if any, advanced by the appellants.

NLL
1-9-53

SAS
2.9.53

dtd 4/9/53

To The Commr, Madipi Mcty thro' C.M.C.

From

Sri K.G. Menon, I.C.S.,
Inspector of Mi.Cls. & Local Boards, Madras.1

To

The Secretary to Government,
Health Department, Madras.

L.Dis.52154/53, Dated 20-8-53.

Sir, 45761

Sub:-Town Planning - Udipi Municipality - Levy of Betterment tax - Action under section 36 of the Madras District Municipalities Act -

Ref:-Government Memo.No.26305-T/53-1 Health dated 1-8-53.

The letter of the Director of Town Planning, Madras L.Dis. No.2455/53, dated 29-6-53 referred to in the above Government Memo. was already forwarded to Government with my remarks in my L.Dis.No. 18861/53, dated 30-7-53.

for Inspector.

R.O.C.No. 3965-49, Municipal Office, Udipi,
Dated 30-9-1953.

From
Sri K.Gopala Menon, B.A.,B.L.,
Commissioner,
Udipi Municipality, UDIPI.

To
The Secretary to Government,
Health Department,
Fort St. George, MADRAS.

****

53998

Thro'
The Chairman, Municipal Council, Udipi.

Sir,

Sub:- TOWN PLANNING - Udipi Municipality - Central Ward Town Planning Scheme - Levy of betterment contribution, Cancellation of Council's Resolution.

- - - - -

Ref:- Memorandum No.26305-T/53-A, Health, dated 2-9-1953.

- - - - -

Of the 9 appeals disposed off by the Council, only 2 of them were time-barred and they were within 30 days. No reasons were given by the appellants in their appeals nor did the Council specifically admitted these time barred appeals condoning the delay; but the resolution of the Council on each of the time barred appeals states that the parties were heard.

Incidently I may bring to the notice of the Government, that the remaining 5 appellants asked for only reduction of the contribution and not the complete remission. In these cases complete remission has been given by the Council.

Forwarded,

Chairman,
Municipal Council, Udipi.

Commissioner. 3.10.53

Bks.

H.E. & L.A. (H.V). DEPT.

C.No.26305/53.

Memo. No.26305-H5-7, Health, dated 18-11-53.

Sub:- Town Planning--Udipi Mpty.--The Central Ward T.P. Scheme--Levy of betterment contribution--Cancellation of resolution of the Municipal Council.

Ref:- From the Commr., Udipi Mpty., Rc.No.3965-49 dated 25-2-53.
From the Commr., Udipi Mpty., No.3965-49 dated 30-9-53.

...

The Commissioner, Udipi Municipality is requested to explain to the Municipal Council the disadvantages that are likely to arise especially the extent of financial loss to the Council (the exact amount of loss to be specifically pointed out to the Council) if its resolution No.16, dated 14-2-53 reducing the market value of certain properties (liable for payment of betterment tax under the Central Ward T.P. Scheme of the Mpty) to that fixed by the Arbitrator of the Scheme for 1942 is to be given effect to, and to ascertain whether it is willing to cancel the resolution. ~~He is also requested to report the result to Govt. in due course~~, He is also requested to send A copy of his note to the council and its resolution ~~should be sent~~ to Govt. along with his reply.

To

The Commr., Udipi Mpty. thro' the Chairman.

R.O.C.No.3965/49. Municipal Office, Udipi,
Dated 16-5-1954

From
Sri K.Gopala Menon, B.A.,B.L.,
Commissioner,
Udipi Municipality, UDIPI.

To
The Inspector of Municipal
Councils and Local Boards,
MADRAS.

Thro'
The Chairman, Municipal Council, Udipi.

Sir,

Sub:- TOWN PLANNING - Udipi Municipality - The Central Ward Town Planning Scheme - Levy of betterment contribution - Cancellation of resolution of the Municipal Council.

Ref:- Government Memorandum No.26305-H5-7, dated 18th December 1953.

ASSISTANT SECRETARY TO GOVT. 21 MAY 1954 52188 HEALTH, EDN. & LOCAL ADMN. DEPTT.

The Memorandum No.26305-H5-7 dated 18th December 1953 of the Government was placed before the Council at its March Meeting as subject No. 4 dated 27-3-1954 with a detailed note (copy submitted) as to the disadvantages of reducing the betterment tax to the amount fixed by the arbitrator. I am submitting a copy of the Municipal Council Resolution No.4 dated 27-3-1954. Again the Memorandum was placed before the Council at its meeting held on 10-4-1954.

The Council's resolution No.4 dated 27-3-1954 gives a clear idea of the attitude of the Councillors to the question of betterment tax. Instead of rectifying its own mistake they want to accuse the executive even when the full facts are placed before the Council.

In its resolution No.4 dated 10-4-1954 (copy submitted) the Council directs me to place the draft of the letter to Government for its approval. I have not come across with such a procedure asking the Executive that a draft of his letter is approved by a Council. The Council can, in my opinion, only pass any resolution it likes on a subject placed before it and not direct the Executive to prepare a draft of the letter for its approval. The correspondance on resolutions is to be carried on only by the Executive and not with the approval of the Council. I presume that this part of its resolution is an interference with the executive functions of the Commissioner. I may kindly be advised whether I should place before the Council draft letter for its approval. If such a procedure is accepted it may create a very bad precedent. For, the Council may require the Executive to place the draft of every communication addressed to the Higher Authorities of its approval.

In the same resolution, the Council states that it is prepared to reconsider its resolution, if the Government is not satisfied about the validity of the resolution in question.

In the Government Memorandum clearly shows that what is to be explained to the Council is the disadvantages that are likely to arise especially the extent of financial loss to the Council, if its resolution No.16 dated 14-2-1953 reducing the market value of certain properties to that fixed by the arbitrator of the Scheme, and not the validity of the resolution No.16 dated 14-2-1953.

As a reply to this memorandum, the Council says that the loss is only Rs.243-6-6 and if the Government is not satisfied about the validity of the resolution which never arises under the Government Memo, the Council is prepared to reconsider its previous resolution.

Hence, I request that necessary orders may kindly be passed on the question raised, viz., whether or not the draft

57

of the letter should be placed before the Council for its approval.

Forwarded, 18.5.54
Commissioner.

Chairman, U.M.C. 17/5

Copy submitted to the Secretary to Government, Health. Education and L.A.Department, Madras.

Bks. -

HELA(HS) 21-5-

A final report from the Commissioner Nidipi Municipality in the matter may be awaited till 25.6.54.

14.5.54

TNB
24/5/54

NRP
24-5-54

NOTE TO THE COUNCIL.

5'

The Council in its resolution No.16 dated 14-2-1953 (in appeal register) has reduced the market value of Certain sites in Central Ward Town Planning Scheme area, to the ~~xxx~~ level of the market value fixed by the Arbitrator appointed for the Scheme. If the resolution of the Council is implemented, a sum of Rs. 243-6-6 will be a loss to the Council and therefore the resolution No.16 dated 14-2-1953 may be cancelled for the following more reasons.

1. The betterment contribution now levied is not sufficient to pay the annuity fixed in respect of the loan of Rs.54,000/- borrowed from the Government and invested on the Scheme. Out of the total cost of the scheme, a sum of Rs.89,000/- is proposed to be met out of the general funds of the Municipality, which comes to about Rs.5,250/- per annum. The financial condition of the Municipality at present is not satisfactory to bear further burden viewed from this point, the decision of the Council to practically exempt the rate payers, from the betterment levy may have far reaching consequences on the finances of the Council.

2. The present market value in the Scheme area, has definitely increased on account of the application of the Scheme and formation of several roads contemplated in the Scheme. The present market value can in no circumstances be the one fixed by the Arbitrator as on 15-12-1942.

3. By allowing time-barred appeals and reducing the market value, the Council has contravened the provisions of Rule 63(2) of the Town Planning Rules.

4. Some of the appellants had not asked for complete remission of the betterment contribution, but only prayed for some relief in the quantum of the contribution, and one of the appellant has only prayed for the reduction of the market value, to the one fixed by the Council for other similar cases in 1951-1952.

5. By practically exempting the lands from peyment of betterment ~~xxx~~ levy in the cases of 7 appellants, there will be discrimination between them and those whose appeals have been rejected and those who have not appealed against the levy, which is reasonable and fair, as already explained.

6. The Council has subsequently realised the error committed in resolution No.16 dated 14-2-1953, and has not reduced the market value of the subsequent appellants for the year 1953-1954 to the level of the Arbitrator and hence the resolution of the Council may be cancelled.

Municipal Office, Udipi,
Dated 24-3-1954.

(Sd.) K. Gopala Menon,
Commissioner.

/TRUE COPY/

K. Gopalakrishnan 18.5.54

Commissioner,
Udipi Municipality, Udipi.

Bks.

Copy of Resolution No.4 dated 27-1-1954 of the Municipal Council, Udipi.

- - - -

Government Memorandum No.26305-H5-7 dated 18th December 1953 requesting the Commissioner to explain to the Municipal Council, the disadvantages that are likely to arise, especially the extent of financial loss to the Council, if its resolution No.16 dated 14-2-1953 is to be given effect to and to report, whether the Council is willing to cancel the resolution.

Also Commissioner's note thereon.

RESOLUTION:

"The Council strongly protest against the conduct of the Commissioner, in writing to the Secretary to Government, Health Dept., Madras, behind the back of the Council, setting out an one sided and destorted version of the consideration on which the Council's resolution No.16 dated 14-2-1953 was based. The Council also protests against the criticism contained therein against some Councillors and their decision, which criticism was throughly unauthorised, unwarranted and beyond his powers as executive authority. Moved by Sri K.K. Pai. Seconded by Sri P.V. Achar.

Sri Manjunatha Rao opposes the resolution, put to vote 5 for, 6 against and 1 neutral. Sri K.K. Pai and Sri Devendra Shenoy demanded a poll.

Ayes.	Noes.
1. Sri P.V. Achar.	1. Sri Panduranga Shenoy.
2. Sri K. K. Pai.	2. Sri Rama Rao.
3. Sri Devendra Shenoy.	3. Sri Manjunatha Rao.
4. Sri U.S. Imam Saheb.	4. Sri M.Vittal Shetty.
5. Sri Ramachandra.	5. Srimathi Manorama Devi.
	6. Sri B.S.Acharya.

At this stage, Sri B.S.Acharya walked out as a protest, as it is a waste of time by carrying an unnecessary discussion on item No.4 simply because one Councillor's name was written and struck off in the letter sent to the Government.

Sri Seetharama Kamath moves a resolution to adjourn this meeting. Sri Panduranga Shenoy seconded. Sri K.K.Pai opposed. 6 for and 5 against. Sri K.K.Pai and Devendra Shenoy demanded a poll.

Ayes.	Noes.
1. Sri Manjunatha Rao	1. Sri P.V. Achar.
2. Sri Panduranga Shenoy.	2. Sri K. K. Pai.
3. Sri Vittala Shetty.	3. Sri Devendra Shenoy.
4. Sri Seetharama Kamath.	4. Sri U.S. Imam Saheb.
5. Dr. P.V.Vyasa Rao.	5. Sri U.Ramachandra.
6. Srimathi Manorama Devi.	

The resolution of Sri Seetharama Kamath is carried and the meeting adjourned.

(Sd.) P.V.Vyasa Rao,
Vice-Chairman.

/TRUE COPY/

Gopalakrishnan
Commissioner, 18.5.54
Udipi Municipality, Udipi.

17/5

Bks.

Copy of Resolution No.4 dated 10-4-1954 of the Municipal Council, Udipi.

- - - -

Government Memorandum No.26305-H5-7, dated 18th December 1953, requesting the Commissioner to explain to the Municipal Council, the disadvantages that are likely to arise, especially, the extent of financial loss to the Council, if its resolution No.16 dated 14-2-1953 is to be given effect to and to report whether the Council is willing to cancel the resolution.

Also Commissioner's note and the Council's resolution No.4. dated 27-3-1954.

RESOLUTION:-

"This Council resolves that in view of the fact that R.O.C. No.3965/49 dated 25-2-1953, does not contain the information as to the actual figure of the loss which the Municipality might suffer and that now it is discovered, that the loss would be only Rs. 243-6-6, a fresh report containing all the facts and approved by the Council, may be sent to the Government with the information that the Council is prepared to reconsider its decision, if the Government is still not satisfied about the validity of the resolutions in question after going through the said fresh report. Moved by Sri P.V.Achar, seconded by Sri U.S. Imam Saheb.

Srimathi Manorama Devi left the meeting with the permission of the Chair. Resolution passed.

Sri A.Manjunatha Rao, Sri Dasa Sherigara, Sri Vittal Shetty, Sri Panduranga Shenoy, Sri Seetharama Kamath and Dr. P.V.Vyasa Rao not participated. Sri Vittal Shetty, Sri Devendra Shenoy, Dr. K.L. Aithala left the meeting with the permission of the Chair."

(Sd.) P.V.Vyasa Rao,
Vice-Chairman,
Municipal Council, Udipi.

/TRUE COPY/

Commissioner, 18/5/54
Udipi Municipality, Udipi.

Bks.

HELA(HS)Dept.

Udupi

52

Memorandum no 26305 HS/53-8 dt 29-6-54.

Sub:- Town Planning - Udupi Municipality - The central ward T.P. Scheme - Levy of betterment Contribution - Cancellation of resolution of the Municipal Council.

Ref:- Govt. M. no. 26305 HS/53-7 (Health) dt 18-12-53.
From the Commissioner, Udupi Mpty.
ROC no 3965/49 dt 16-5-54 to G.M.L.B. (copy communicated to Govt.).

The Commissioner, Udupi Municipality is requested to expedite the submission of his final report in the matter.

To

The Commissioner
Udupi Municipality
(through) C.M.C.

HEL A (HS) Dept

59

Memorandum no 26305 HS/53-9 dt 30-7-54.

Sub:— Town Planning - Udipi Municipality
The central Ward T.P. Scheme -
Levy of betterment Contribution -
Cancellation of resolution of the
Municipal Council.

Ref:— Govt M.no. 26305 H S/53-8 (Health
dated 29-6-54.

The Commissioner, Udipi Municipal
is requested to state in what stage the matter
now is and when his final reply may be
expected to reach the Govt.

To
The Commissioner
Udipi Mpality
Through C.M.C.

R.O.C.No.3965/49. Municipal Office, Udipi,
Dated 6-8-1954.

From
Dr.K.Ramachandra Rao, L.M.& S.,
CommissionerDelegate, /B.S.Sc.
Udipi Municipality, UDIPI.

To
The Secretary to Government,
Health, Education and L.A.Dept.,
Fort St.George, MADRAS.

****

Thro'
The Chairman, Municipal Council, Udipi.

Sir,

Sub:- TOWN PLANNING - Udipi Municipality - Central Yard Town Planning Scheme - levy of betterment contribution - cancellation of resolution of the Municipal Council.

Ref:- Government Memorandum No.26305-H5/53-8, Health, dated 30-7-1954.

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In continuation of my report R.O.C.No.3965/49 dated 30-6-1954 with a copy of the resolution No. 4 dated 10-4-1954 on the Government Memorandum No.26305-H5-7 dated 18-12-1953 has been submitted to the Government through the Inspector of Municipal Councils and Local Boards, Madras, on 1-7-1954.

79918/gk

Commissioner-Delegate.
6.8.54

Forwarded,

P.V. Mallya
Vice-Chairman,
Municipal Council, Udipi.

ASSISTANT SECRETARY TO GOVT. (9 AUG 1954) HEALTH, EDN. & LOCAL ADMN. DEPT.

Bks.

HELA (HS) Dept.

Report of the Commissioner, Udupi municipality stated to have been sent through G.L.B. may be awaited till 9-9-54.

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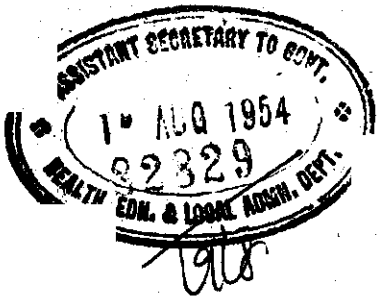
Office of the Inspector of Hl. Sch
and Local Boards. Madras

V. Dis 35461/5. D/ 16-8-54



Forwarded.

The previous reference of the Municipal Commissioner Madurai was forwarded to Govt in this office Endt No. 29494/54 D/ 12-7-54 through the Director of Town Planning Madras

Sd/ [illegible] 16.8.54
For Inspector

11/8/54

To

The Secretary to Govt,
Health, Education and L. A. Dept, 16-8-54
Madras.

R.O.C.No.3965/49.

Municipal Office, Udipi,
Dated 6-8-1954.

35451

From
Dr.K.Ramachandra Rao, L.M.& S.,
Commissioner-Delegate, /B.S.Sc.
Udipi Municipality, UDIPI.

To
The Secretary to Government,
Health, Education & L.A.Dept.,
Fort St.George, Madras.

****

Thro'
The Chairman, Municipal Council, Udipi.

9-AUG1954

Sir,

Sub:- TOWN PLANNING - Udipi Municipality - Central Ward, Town Planning Scheme - levy of betterment contribution - cancellation of resolution of the Municipal Council.

Ref:- Government Memorandum No.26305-H5/53-8, Health, dated 30-7-1954.

- - - -

My report R.O.C.No.3965/49 dated 30-6-1954 with a copy of the Resolution No.4 dated 10-4-1954 on the Government Memorandum No.26305-H5-7 dated 18-12-1953 has been submitted to the Government through the Inspector of Municipal Councils and Local Boards, Madras, on 1-7-1954.

(Sd.) K.Ramachandra Rao
Commissioner-Delegate

Copy submitted to the Inspector of Municipal Councils and Local Boards, Madras, with a request that my report R.O.C.No.3965/49 dated 30-6-1954 may kindly be forwarded to the Government, if it has not been done already. I have received a reminder from the Government on the subject.

Municipal Office, Udipi,
Dated 6-8-1954.

K.Ramachandra Rao 6/8/54
Commissioner-Delegate.

Forwarded, M.V.Nayak 6.8.54
Vice-Chairman, U.M.C.

HELA(HS)Jagdish

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6'2/13/9

Memorandum no 26305-HS/53-16 dated 11-9-53

Sub:- Town Planning - Udipi Municipality

The Central Ward T.P. Scheme -

Levy of betterment Contribution -

Cancellation of resolution of the

Municipal Council.

Ref:- From the Commissioner, Udipi

Municipality ROC no 3965/49

dated 6-8-53

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The Inspector of Municipal

Councils and Local Boards is requested to

forward/the ~~return~~ ~~submitted by the~~ with his remarks, at ~~an~~ early ~~~~ date

~~Commissioner in this~~ letter ~~no 3965~~ ROC no of the Commr., Udipi Municipality

3965/49 dated 30-1-54 stated to have

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have been sent through him; ~~of any~~
~~early date~~

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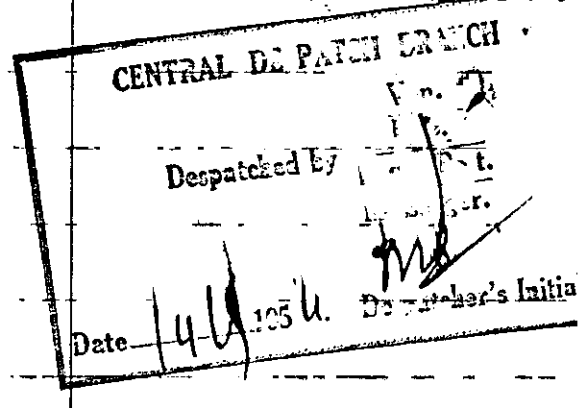
MRP.
10-9-54

To -

The Inspector of
Municipal Councils
and Local Boards



From
Sri J.Sivanardam, I.A.S.,
Inspector of Ml.Cls. & Local Boards, Madras.1

To
The Secretary to Government,
Health, Education and Local Administration Department, Madras.

L.Dis.42125/54- dated 20-9-54.

Sir,

Sub:-Town Planning - Udipi Municipality - The Central Ward Town Planning Scheme - Levy of betterment contribution cancellation of resolution of the Municipal Council.

Ref:-Government H.E. and L.A., Department Memo.No.26305/53-10 dated 11-9-54.

I have already forwarded the letter of the Municipal Commissioner, Udipi Roc.No.3965/49, dated 30-6-54 to Government through the Director of Town Planning, Madras, in this office Endt.No.29494/54, dated 12-7-54.

for Inspector.

pkr.21/9

H.E.L.A (HS) Dept.

Memorandum no. 26305-H.S/93-U dt. 25/9/24

Sub: Town Planning - Kalpetta Municipality - Thiruvambadi Ward T.P. Scheme - Levy of betterment contribution - Cancellation of resolution of the municipal Council

Ref: 1. Minutes of the D.L.B. dt. nil
2. U.O. No. 12-5/24 dated 20-9-24.

The D.T.P. is requested to forward with clear remarks at one early date the letter of the Secretary, Kalpetta Municipality in Endt. no. 29494/24 dated 12-7-24 of the R.T.O.

Inspection of municipal councils and Local Boards, stated to have been sent and its enclosures through him.

To

The D.T.P.

22/9/54

22.9.54

R.O.C. No. 3965/49

Municipal Office, Udipi,
Dated 30-6-1954.

2°494

From
Sri K.Gopala Menon,B.A.B.L.,
Commissioner,
Udipi Municipality, UDIPI.

To
The Secretary to Government,
Health, Education and L.A.Dept.,
Fort St. George, MADRAS.

Thro'

The Chairman, Municipal Council, Udipi,
and
The Inspector of Municipal Councils and Local Boards,
Madras.

Sir,

Sub:- TOWN PLANNING - Udipi Municipality - The Central Ward Town Planning Scheme - Levy of betterment contribution - cancellation of resolution of the Municipal Council.

Ref:- Government Memorandum No.26305-45-7, Health, Edn. and L.A.Dept., dated 18th December 1953.

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As required by the Government in their memorandum above referred to, the Municipal Council was moved on 27-3-1954 to ascertain whether it is willing to cancel its resolution No.16 dated 14-2-1953 for the reasons explained in my note dated 24-3-1954 (copy enclosed - Enclosure-I). After a heated discussion, a resolution strongly protesting against my conduct in writing to the Government on the Council Resolution No.16 dated 14-2-1953 and characterising my report to the Government as criticisms thoroughly unauthorised, unwarranted and beyond my powers as Executive Authority was moved and duly seconded. But this resolution was thrown out by a majority of one vote and the meeting was adjourned without taking a decision on the subject. The subject was again placed before the Council at its meeting held on 10-4-1954. It was resolved that, for the reasons stated therein, a fresh report containing all facts and approved by the Council might be sent to the Government with the information that the Council was prepared to reconsider its decision, if the Government was not satisfied about the validity of the resolution in question after going through the said fresh report. (Copies of Resolutions No.4 dated 27-3-1954 and 4 dated 10-4-1954 are enclosed - Enclosures II & III). That part of the resolution which directed the Executive that "a fresh report containing all facts and approved by the Council may be sent to the Government" was, in my opinion, not in order and was opposed to the instructions issued in G.O.No.3058, L.A., dated 2-8-1939. The orders of the Inspector of Municipal Councils and Local Boards, Madras, were therefore solicited on the question in my letter R.O.C. No.3965/49, dated 16-5-1954 (Copy enclosed - Enclosure IV). The Inspector in his L.Dis.No.22454/54 dated 5-6-1954 (copy enclosed - Enclosure V) informed me that it is not desirable to place the draft of the letter before the Municipal Council, that, if the Municipal Council disagrees with my views, it is open to the Council to express its opinion and that the Chairman can also offer his own remarks while forwarding the letter, if he disagrees with the Council. When this letter of the Inspector was placed before the Council at its meeting held on 12-6-1954 for information as a ruling against its direction in resolution No.4 dated 10-4-1954 so far as it related to the fresh report being placed before the Council for its approval the Council resolved that it desired to bring to the notice of the Inspector that my letter dated 16-5-1954 to the Inspector contained misrepresentations of facts and that the Council never requested me to place before the Council the draft of any letter from me to the Government, vide Council Resolution No.7 dated 12-6-1954 (copy enclosed - Enclosure VI). I had submitted to the Inspector true copies of Resolutions No.4 dated 27-3-1954 and No.4 dated 10-4-1954 and expressed my views and apprehension thereon and solicited the orders of the Inspector. In the circumstances I have not been able to

discover which part of my reference to the Inspector contains mis-representations. I have also not been able to understand what else it could mean, if the Council's direction that "a fresh report containing all facts and approved by the Council" is not a direction to me to place before the Council the draft of my letter to the Government. After the resolution moved at the meeting held on 27-3-1954 was voted down, a set of interpellations put by one of the aggrieved Councillors were answered by the Chairman at its meeting held on 10-4-1954 (copies enclosed - Enclosure VII). The questions answered clearly show that there was no cause for any one to make out a grievance against my reference to the Government. Evidently some of the Councillors, who supported the reduction of the market value to that fixed by the Arbitrator and thus exempted certain properties from liability to betterment contribution, did not like the idea of my taking up the matter to the Government and they expected me to implement the resolution even though the resolution was unacceptable on principles, if not on legal grounds. In view of the instructions issued by the Government in G.O.No.2449, L.A., dated 6-9-1941, I could not but report the matter to the Government for orders and advice. I am sure I have not committed any crime against anyone to justify the criticisms levelled against me in the resolutions of the Council.

2. In its resolution No.4 dated 10-4-1954 the Council has resolved as follows:-

"This Council resolves that in view of the fact that R.O.C. No.3965/49 dated 25-2-1953 does not contain the information as to the actual figures of the loss which the Municipality might suffer and that now it is discovered, that the loss would be only Rs.243-6-6, a fresh report containing all the facts and approved by the Council, may be sent to the Government, with the information that the Council is prepared to reconsider its decision if the Government is still not satisfied about the validity of the resolution in question after going through the fresh report."

3. The Government asked the Council to consider the disadvantages that are likely to arise especially the extent of financial loss to the Council, if its resolution No.16 dated 14-2-1953 is given effect to and not the validity of the resolution. The loss involved is Rs.243-6-6. The disadvantages likely to arise have been explained in my note to the Council dated 24-3-1954. I solicit orders of the Government on the above resolution of the Council.

K. Gopalakrishnan 1.7.54.
Commissioner,
UDIPI MUNICIPALITY, UDIPI.

Forwarded,

T.V. Mahalingaraya 1.7.54.
Vice-Chairman,
Municipal Council, Udipi.

Bks.

Enclosure I

NOTE TO THE COUNCIL.

The Council in its resolution No.16 dated 14-2-1953 (on appeal register) has reduced the market value of certain sites in Central Ward Town Planning Scheme area, to the level of the market value fixed by the Arbitrator appointed for the scheme. If the resolution of the Council is implemented a sum of Rs.243-6- will be a loss to the Council and therefore the resolution No.16 dated 14-2-1953 may be cancelled for the following reasons.

1. The betterment contribution now, levied is not sufficient to pay the annuity fixed in respect of the loan of Rs.54,000/- borrowed from the Government and invested on the scheme. Out of the total cost of scheme, a sum of Rs.89,000/- is proposed to be met out of the general funds of the Municipality, which comes to about Rs.5250/- per annum. The financial condition of the Municipality at present ~~xx~~ is not satisfactory to bear further burden. Viewed from this point, the decision of the Council to practically exempt the rate payers, from the betterment levy may have far reaching consequences on the finances of the Council.

2. The present market value in the scheme area, has definitely increased on account of the application of the scheme and formation of several roads contemplated in the scheme. The present market value can in no circumstances be the one fixed by the Arbitrator as on 15-12-1942.

3. By allowing time barred appeals and reducing the market value, the Council has contravened the provisions of Rule 63(2) of the Town Planning rules.

4. Some of the appellants had not asked for complete remission of the betterment contribution, but only prayed for some relief in the quantum of the contribution and one of the appellant has only prayed for the reduction of the market value, to the one fixed by the Council for other similar cases in 1951-1952.

5. By practically ~~xxxx~~ exempting the lands from payment of betterment levy in the cases of 7 appellants, there will be discrimination between them and those whose appeals have been rejected and those who have not appealed against the levy which is reasonable and fair, as already explained.

6. The Council has subsequently realised the error committed in resolution No.16 dated 14-2-1953, and has not reduced the market value of the subsequent appellants for the year 1953-1954 to the level of the Arbitrator and hence the resolution of the Council may be cancelled.

Municipal Office, Udipi,
Dated 24-3-1954.

(Sd.) K.Gopala Menon,
Commissioner.

/TRUE COPY/

K.Gopalmenon
Commissioner, 1.7.54.
Udipi Municipality, Udipi.

1.7.54.

Bks.

Enclosure-II

Copy of Resolution No.4 dated 27-3-1954 of the Municipal Council, Udipi.

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Government Memorandum No.26305-H-5-7, dated 18th December 1953, requesting the Commissioner to explain (the) to the Municipal Council, the disadvantages that are likely to arise, especially the extent of financial loss to the Council, if its resolution No.16 dated 14-2-1953 is to be given effect to and to report whether the Council is willing to cancel the resolution.

Also Commissioner's note thereon.

RESOLUTION:-

"The Council strongly protest against the conduct of the Commissioner in writing to the Secretary to Government, Health Department, Madras, behind the back of the Council, setting out one sided and destroted version of the consideration on which the Council's resolution No.16 dated 14-2-1953 was based. The Council also protests against the criticism contained therein against some Councillors and their decision, which criticism was throughly unauthorised, unwarranted and beyond his powers as executive authority. Moved by Sri K.K.Pai. Seconded by Sri P. V.Achar.

Sri Manjunatha Rao opposes the resolution, put to vote 5 for 6 against and 1 neutral. Sri K.K.Pai and Sri Devendra Shenoy demanded a poll.

Ayes.	Noes.
1. Sri P.V. Achar.	1. Sri Panduranga Shenoy.
2. Sri K.K. Pai	2. Sri K.Rama Rao.
3. Sri K.Devendra Shenoy.	3. Sri Manjunatha Rao.
4. Sri U.S. Imam Saheb.	4. Sri Vittal Shetty.
5. Sri U.Ramachandra.	5. Srimathi Manorama Devi.
	6. Sri B.S.Acharya,

At this stage, Sri B.S.Acharya walked out as a protest, as it is a waste of time by carrying an unnecessary discussion on item No.4 simply because one Councillor's name was written and struck off in the letter sent to the Government.

Sri Seetharama Kamath moves a resolution to adjourn the meeting, Sri Panduranga Shenoy seconded. Sri K.K.Pai opposed. 6 for and 5 against. Sri K.K.Pai and Sri Devendra Shenoy demanded a poll.

Ayes.	Noes.
1. Sri A.Manjunatha Rao	1. Sri P.V.Achar.
2. Sri Panduranga Shenoy.	2. Sri K.K.Pai.
3. Sri Vittal Shetty.	3. Sri K.Devendra Shenoy.
4. Sri Seetharama Kamath.	4. Sri U.S.Imam Saheb.
5. Srimathi Manorama Devi.	5. Sri U.Ramachandra.
6. Dr.P.V.Vyasa Rao.	

The resolution of Sri Seetharama Kamath is carried and the meeting adjourned.

(Sd.) P.V.Vyasa Rao,
Vice-Chairman,
Municipal Council, Udipi.

/TRUE COPY/

1.7.54.

Commissioner, U.M.

02.7.54

Enclosure-III

Copy of Resolution No.4 dated 10-4-1954 of the Municipal Council, Udipi.

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Government Memorandum No.26305-H-5-7 dated 18th December 1953, requesting the Commissioner to explain to the Municipal Council the disadvantages that are likely to arise, especially the extent of financial loss to the Council, if its resolution No.16 dated 14-2-1953 is to be given effect to and to report whether the Council is willing to cancel the resolution.

Also Commissioner's note and the Council's resolution No.4 dated 27-3-1954.

RESOLUTION:-

" This Council resolves that in view of the fact that R.O.C. No.3965/49 dated 25-2-1953, does not contain the information as to the actual figures of the loss which the Municipality might suffe and that now it is discovered that the loss would be only Rs.243-6-6 a fresh report containing all the facts and approved by the Council, may be sent to the Government with the information that the Council is prepared to reconsider its decision, if the Governmer is still not satisfied about the validity of the resolutions in question after going through the said fresh report." Moved by Sri P V.Achar seconded by Sri U.S. Imam Saheb.

Srimathi Manorama Devi left the meeting with the permission of the Chair. Resolution passed.

Sri A.Manjunatha Rao, Sri Dasa Sherigara, Sri Vittal Shetty Sri Pandu ranga Shenoy, Sri Seetharama Kamath and Dr.P.V.Vyasa Rao not participated. Sri Vittal Shetty, Sri Devendra Shenoy Dr.K.L.Aithala, left the meeting with the permission of the Chair."

(Sd.) P.V.Vyasa Rao,
Vice-Chairman,
Municipal Council, Udipi.

/TRUE COPY/

Commissioner, 1.7.54.
Udipi Municipality, Udipi.

Bks.

1.7.54

Enclosure-IV Copy of R.O.C.No.3965/49 dated 16-5-1954.

From
Sri K.Gopala Menon, B.A.,B.L.,
Commissioner,
Udipi Municipality, UDIPI.

To
The Inspector of Municipal
Councils and Local Boards,
MADRAS.

Thro'
The Chairman, Municipal Council, Udipi.

Sir,

Sub:-TOWN PLANNING -Udipi Municipality - The Central Ward Town Planning Scheme - Levy of betterment contribution Cancellation of resolution of the Municipal Council.

Ref:- Government Memorandum No.26305-H5-7 dated 18th December 1953.

The Memorandum No.26305-H5-7 dated 18th December 1953 of the Government was placed before the Council at its March Meeting as subject No.4 dated 27-3-1954 with a detailed note (copy submitted) as to the disadvantages of reducing the betterment tax to the amount fixed by the arbitrator. I am submitting a copy of the Municipal Council Resolution No.4 dated 27-3-1954. Again the Memorandum was placed before the Council at its meeting held on 10-4-1954.

The Council's resolution No.4 dated 27-3-1954 gives a clear idea of the attitude of the Councillors to the question of betterment tax. Instead of rectifying its own mistake they want to accuse the executive even when the full facts are placed before the Council.

In its resolution No.4 dated 10-4-1954 (copy submitted) the Council directs me to place the draft of the letter to Government for its approval. I have not come across with such a procedure asking the Executive that a draft of his letter is approved by a Council. The Council can, in my opinion, only pass any resolution it likes on a subject placed before it and not direct the Executive to prepare a draft of the letter for its approval. The correspondence on resolutions is to be carried on only by the Executive and not with the approval of the Council. I presume that this part of its resolution is an interference with the executive functions of the Commissioner. I may kindly be advised whether I should place before the Council draft letter for its approval. If such a procedure is accepted it may create a very bad precedent. For, the Council may require the Executive to place the draft of every communication addressed to the Higher Authorities for its approval.

In the same resolution, the Council states that it is prepared to reconsider its resolution, if the Government is not satisfied about the validity of the resolution in question.

The Government Memorandum clearly shows that what is to be explained to the Council is the disadvantages that are likely to arise especially the extent of financial loss to the Council, if its resolution No.16 dated 14-2-1953 reducing the market value of certain properties to that fixed by the arbitrator of the scheme, and not the validity of the resolution No.16 dated 14-2-1953.

As a reply to this memorandum, the Council says that the loss is only Rs.243-6-6 and if the Government is not satisfied about the validity of the resolution which never arises under the Government Memo, the Council is prepared to reconsider its previous resolution.

Hence, I request that necessary orders may kindly be passed on the question raised, viz., whether or not the draft of the letter should be placed before the Council for its approval.

Forwarded,
(Sd.) U.S.Nayak,
Chairman, U.M.C.

(Sd.) K.Gopala Menon,
Commissioner.

P.T.O.

Copy submitted to the Secretary to Government, Health, Education and L.A. Department, Madras.

/TRUE COPY/

K. Gopalnaik. 1.7.54.

Commissioner,
Udipi Municipality, Udipi.

Bks.

1.7.54.

Enclosure-V

Copy of L.Dis.No.22454/54, dated 5-6-1954 of the Inspector of Municipal Councils and Local Boards, Madras-1.

- - - -

Sub:- TOWN PLANNING - Udipi Municipality - Central Ward Town Planning Scheme - Levy of betterment contribution cancellation of resolution of the Municipal Council.

- - -

Ref:- Your Roc.3965/49 dated 16-5-1954.

- - -

It is not desirable to place the draft of a letter before the Municipal Council. If the Municipal Council disagrees with your views it is open to the Council to express its opinion. The chairman can also offer his own remarks while forwarding the letter if he disagrees with the council.

(Sd.).....

for Inspector.

/TRUE COPY/

Commissioner, 1.7.54.
Udipi Municipality, Udipi.

1.7.54

Brs.

Enclosure VI. 13 8

Copy of Resolution No.7 dated 12-6-1954 of the Municipal Council, Udipi.

- - - -

Letter LDis.No.22454/54 dated 5-6-1954 of the Inspector of Municipal Councils and Local Boards, informing that it is not desirable to place the draft of a letter before the Municipal Council with reference to Council Resolution No.4 dated 10-4-1954.

Also Municipal Council's Resolution No.4 dated 10-4-1954.

RESOLUTION:

"Sri P.V.Achar moves "that this Council desires to bring to the notice of the Inspector that the forwarding letter of the Commissioner 3965/49 dated 16-5-1954 contains misrepresentation of facts and that this Council never requested the Commissioner to place before the Council the draft of any letter from the Commissioner to Government". Sri K.K.Pai seconds. Passed. M/s. A.Manjunath Rao, M.Vittal Shetty and Dr.P.V.Vyasa Rao not participating."

(Sd.) U.S. Nayak,
Chairman,
Municipal Council, Udipi.

/TRUE COPY/ K. Nagalmaran 1.7.54.

Commissioner,
Udipi Municipality, Udipi.

1.7.54

Bks.

Enclosure -VII.

Copy of Interpellations dated 29-3-1954 by Sri K.K.Pai, B.Com., Municipal Councillor, Udipi, and Answers thereto.

Will the Chairman be pleased to state:

Question.1. How many Councillors were present in the ordinary meeting of the Council held on 14-2-1953?

Answer: Eighteen. All except Sri N.Seetharama Kamath and Srimathi S.Manorama Devi.

Q. 2. - Who were they? Please give names of the Councillors present in that meeting.

A. - The Attendance Register is placed on the table.

Question: 3. Were not all the Councillors above referred to present in the meeting while item No.16 of the Agenda of that meeting was considered, discussed and disposed off?

Answer: Yes.

Question: 4. Do the official proceedings of the meeting recorded by the Chairman, show that all of them were present at the time?

Answer: Yes.

Question: 5. Was not the Commissioner also present in the meeting during the discussion and disposal of the said item 16 of the said Council meeting?

Answer: Yes.

Question 6. Did item No.16 of the Agenda of the Council Meeting held on 14-2-1953 pertain to the disposal of several appeals filed by the Rate-payers of the Central Ward against the levy of betterment tax at the rates assessed and demanded by the Municipal Commissioner?

Answer: Yes.

Question 7. Were the several appeals comprised in the said item No.16 of the Agenda, taken up together for disposal?

Answer: Yes.

Question 8: Is it not a fact that those appeals were considered and disposed off in the meeting one bybne?

Answer: It is only after Sri M.V.Kamath's resolution was voted down by the Council and Sri A.Manjunath Rao's resolution was ruled out by the Chairman, appeals were considered and disposed of one by one.

Question 9:Were any of those appeals put to vote ~~ex~~ for decision?

Answer: Yes. Two of them were put to vote.

Question 10: If so, whose were the appeals decided by taking of votes in the meeting?

Answer: The Canara Banking Corporation Ltd., Udipi,and Sri Shiroor Mutt, Udipi, represented by Sri K.Subraya Aithala.

Question 11: Is it not a fact that all the Councillors present in the said meeting, except Sri A.Manjunath Rao,

and participated in the decisions of all the appeals which were allowed by the Council?

Question 12: Is it not a fact that none of the Councillors who had participated in the disposal of the several appeals above referred to, had made known to the open Council their opposition or dissent to the Council decisions on the appeals?

Answers 11 & 12.:- All members present participated. Sri A. Manjunath Rao dissented from the decision of the Council and the chairman dissented on appeals 5, 6 and 7.

Question 13: Do the recorded proceedings of the Council meeting dated 14-2-1953 show that any Councillor or Councillors had opposed or dissented to the Council decisions allowing the appeals?

Answer: Yes.

Question 14: Is it not a fact that the Commissioner who was present in the meeting did not bring to the notice of the Council, at the time these appeals were allowed, that some of the appeals were time-barred?

Answer: Not a fact.

Question 15: Is it not a fact that item No.16 of the Agenda of the Council Meeting dated 14-2-1953 did not contain any office note pointing out that some of the appeals were time-barred?

Answer: Such a note has been recorded against each item of appeal in the Appeal Register in column 12.

Question 16:- Is it not true that the Commissioner at no stage pointed out in the meeting the inadmissibility on legal grounds of some of the appeals placed before the Council?

Answer: The Commissioner did bring to the notice of the Council that appeals No.5 and 6 were time-barred.

Question 17: Will the Chairman be pleased to state why a Special Meeting of the Council was not convened by him for the purpose of rescinding the Council resolutions in so far as they related to time-barred appeals, especially when such decisions were clearly the result of want of any guidance from the Commissioner?

Answer: The decision of the Council on appeals being final, there was no question of rescending them. It is incorrect to say that the decisions were the result of want of guidance especially when the implication of the decision was fully and elaborately explained by one of the Councillors Sri A.Manjunath Rao, before it was taken and the Commissioner had nothing more to add to what was explained by the said Councillor.

Question 18: Is it a fact that some of the Councillors who had fully participated in the disposal of the appeals and had not opposed or dissented to the Council decisions in the open Council, subsequently forwarded their minutes of dissent to the Council decision on item No.16 of the Agenda of the Council meeting dated 14-2-1953?

Answer: Yes. The result of voting on the resolution of Sri M.V.Kamath and on the first two appeals and submission of minutes of dissent subsequently show that some of the Councillors who participated in the discussions were not in favour of the decision.

Question 19: If so, who are the Councillors concerned? Please state their names?

Answer: Messrs. I.Raghurama Shetty, B.S.Acharya, K.Rama Rao, M.Vittal Shetty, M.Panduranga Shenoy and Dr.P.V.Vyasa Rao.

Question 20: Whether any of the Councillors who had forwarded their minutes of dissent had expressed in the meeting itself, their dissent to allowing of the appeals?

Answer: Not specifically in the meeting.

Question 21: If so, who are the Councillors concerned? Please give their names:

Answer: Please see answer to question No.19.

Question 22: Is it not a fact that all those Councillors who had forwarded their minutes of dissent, were also parties to the admission and disposal of all those appeals?

Answer: It cannot be said that they were parties to the admission and disposal of all the appeals.

Question 23: Is it a fact that the Commissioner had sent a report to the Secretary, Department of Health, Government of Madras, Madras, commenting on the decisions of the Council in allowing the appeals above referred to?

Answer:- The Commissioner did make a report to the Government as required by G.O.No.2449, L.A., dated 6-9-1941 for advise and orders deemed fit by the Government in the matter of implementing the decision of the Council and in doing so, he has submitted certain facts for the information of the Government.

Question 24: Is it a fact that the Commissioner in his report above referred to, has termed the Council decisions as illegal?

Answer: Yes. That is evidently his opinion.

Question 25: Has the Commissioner stated in his report above referred to that he was present in the meeting at the time those appeals were disposed off, but he had not put up any explanatory office note for the guidance of the council?

Answer: It is not necessary that the Commissioner's presence in the meeting should be reported to the Government as he is expected to attend the meetings of the Council or of any Committee thereof. In view of the specific note recorded in column 12 of the Appeal Register against every appeal, the allegation contained in the question that he has not put up any explanatory office note for the guidance of the Council is incorrect.

Question 26: Has he at least mentioned in his report the fact that though he was present in the meeting, he did not point out at the time, that some of the appeals were time-barred and that if the Council allowed some of the appeals, that would result in exemption of the appellant from the betterment levy?

Answer: In view of the latter part of the answer to question No.25, this question does not arise.

Question 27: Is it a fact that the Chairman has fully endorsed the Commissioner's views in the said report?

Answer: Yes.

Question 28: Is it not a fact that the Commissioner in his above report, has levelled criticisms against only three or four councillors (whose names are not given in the said report) for the Council's decision allowing the appeals under reference when the decision itself was that of the Councillors present, except Rao Sri A. Manjunath Rao in all and the Chairman in a few cases of appeal?

Answer: No criticisms were levelled against any councillor but facts were reported to the Government.

Question 29: Will the Chairman be pleased to ask the Commissioner to give the names of the Councillors referred to by him in his said report?

Answer: The Councillors referred to are Sri K.K.Pai, Sri U.S.Imam Saheb, and Sri U.Ramachandra.

Question 30: If not, why not?

Answer: Does not arise.

Question 31: Will the Chairman be pleased to state the names of such of the Councillors who decided in favour of allowing those appeals and who were also members of the previous Municipal Council?

Answer: Please see answer to question No.29.

Question No.32: Was the Chairman a Councillor in the previous Municipal Council of this town?

Answer: Yes.

Question No.33: Will the Chairman be pleased to state whether or not, the official record of the proceedings of the Council meeting dated 14-2-1953 show that he too was a party to some of the decisions allowing the appeals?

Answer: The Chairman has dissented on appeals 5, 6 and 7 and voted against allowing the appeals No.1 and 2. It cannot be said that as Chairman, he had participated in the decisio of the other appeals as they were allowed by a majority.

Question No.34: If he was a party, to which of the decisions he was a party and to which not?

Answer: Does not arise.

Question No.35: Is it not a fact that as per usual practice, the Chairman took down the Proceedings of the meeting in loose, serially ~~xx~~ numbered sheets of blank paper and entered them in the Minutes Book after the meeting was dissolved?

Answer: Yes. The practice was adopted with effect from ~~xx~~ 14-3-1953.

Question 36: Is it a fact that it was the Manager of the Municipality, who drafted the said report of the Commissioner and it was also he who revised, corrected, altered and modified the draft report in his own handwriting?

Answer: Yes, under instructions from the Commissioner and in the course of ordinary discharge of his duties as head ministerial Officer.

Question 37: Is the draft report of the Commissioner referred to above, filed with the papers of item No.4 of the Agenda of the Council meeting dated 27-3-1954?

Answer: Yes.

Question 38: Is there a true typed copy of the said report in that file?

Answer: It is not a practice to keep in a file, copies of the drafts in addition to approved drafts.

Question 39: Is it true that in the Draft Report the name of a Councillor was first mentioned, but was subsequently struck off in ink?

Answer: Yes.

Question 40: Why was the name of the Councillor struck off in the draft report?

Answer: In revising and correcting the draft before its approval, it was considered unnecessary to mention the name of Councillor as copies of correspondence between him and the Chairman would be submitted to the Government.

/TRUE COPY/

K. Gopalmanay 1.7.54

Commissioner,
Udipi Municipality, Udipi.

Bks.

1.7.54.

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Office of the Inspector of Local Boards and Mu. Cls. Madras-1.

D.Dis.No.6894/54 6897 1 JUL 1954 MADRAS

D/ 12-7-54

Forwarded to the Secretary to Govt. Health Education and Local Administration Dept, Madras.

Inspector.

9-7-54

To
The Secretary to Govt,
Health Education and Local
Administration Dept,
Madras-1

Through the Director of Town Planning

A1 Report

Office of the Director of Town Planning
Madras 1

Lr 14.7.54 N.Dis. 6897/54 dated 10.54

Ref:- Govt. Memo. No. 2630 5H-5-1/53-11 D. 23.9.54.

Forwarded to the Secretary to Govt. Health, Education and Local administration Dept. for orders.

To
The Secretary to Govt.
Health, Education & Local Administration Dept.
(HECA Dept.)
Madras.

Director of Town Planning

4/x

5/5

(Dis. No. 6897/54) 1003261 26 30 -8.10.54

HELA(HS)2.5

Sub: Town Planning - Adipi Municipality - Central Ward T.P. Scheme - Levy of betterment contribution - Municipal Council's resolution No: 16 dated 14-2-53 - Position clarified.

From the Commr, Adipi Mty, Roc.No: 3965/49 dated 25-2-53

From the D.T.P., L. Dis.No: 2455-53-A1 dt 29-6-53

From the Inspr of ML. Cls & Local Bds, L. Dis. 18811-53 dt 30-7-53

From the Commr, Adipi Mty, Roc. 3965/49 dt 30-6-54

G.O. (Ms) No: 2974 Health dated 4.11.54

In its resolution No: 16 dated 14-2-53 the Adipi Municipal Council allowed certain appeals made by some property owners and reduced the market value of certain properties liable for betterment tax under the Central Ward T.P. scheme to the rate fixed by the Arbitrator of the Scheme for the year 1942. As the matter was brought to the notice of the Govt, the ML. Commr was directed to explain to the ML. Council the disadvantages that were likely to arise if the resolution of the council were to be implemented. The Commr was also requested to ascertain and report the willingness of the ML. council to cancel its resolution. The ML. Council has in its resolution No: 4 dated 10-4-54 resolved that in view of the fact that the Commissioner's Letter No: Roc. 3965/49 dated 25-2-53 does not contain information regarding

the actual loss the council might incur in by implementing its resolution dated 14-2-53 and as the loss would be only Rs 243-6-6 a fresh report containing all facts and approved by the Ml. Council may be sent to the Govt. with the information that the council is prepared to reconsider its decision if the Govt is not still satisfied with the validity of the resolution no: 16 dated 14-2-53 after going through the fresh report.

The Commissioner, Calicut Municipality is informed that the Govt had never doubted the legal validity of the Council's resolution no: 16 dated 14-2-53. The reasons for ~~why~~ the Govt ~~considered~~ desired desiring that the resolution should be cancelled was that it was passed without regard to the financial interests of the municipality. In 1951 Govt examined in detail the representations made by the property owners affected by the scheme and they decided in consultation with the Ml. council to vary the scheme. According to this variation the total amount of betterment tax to be collected by the Ml. Council during 17 years commencing from 1952-53 was limited to Rs 50,400/- This amount was calculated on the basis of the actual cost of the scheme.

If the resolution dated 14-2-53 of

the Ml. council is implemented the council will not be able to collect even the actual cost of the scheme in full. Even though a Ml. council can lose in undertaking slum clearance schemes which are meant for the benefit of the poorer classes of the society there is no justification for foregoing betterment tax in respect of T. P. schemes because the land values increase on account of the execution of T. P. schemes. In the case of the Central ward T. P. schemes, property owners other than those whose appeals have been allowed by the Ml. Council may claim similar concessions atleast in future years and the council may find itself in an embarrassing situation.

The Commissioner, Adipi Municipality is requested to place the above facts before the Ml. council and report in due course the action taken by the Ml. council.

CENTRAL DESPATCH BRANCH
Van. ✓
Post. ✓
Despatched by Regd. Post. Messenger.
Date 5/11/1954. Despatcher's Initials.

NRP 2-11-54

To
The Commr. Adipi Mty
The D. T. P. thro' C. M.C.
The Inspr. of Ml. Clsd Local Bds.
2 S/c.

4/11
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Health C

From the Commr., Kodiyi Mg Roc. 3965/49 dt 25-2-53
From the Collr of South Kanara, L. Dis. 4286/53 dated 13-3-53
From the D.T.P., L. Dis. 2455/53-A1 dt 29-6-53
From the D.L.B., L. Dis. No: 1886/53 dated 30-7-53

Sub: Town Planning – Kodiyi Municipality – The Central Ward T. P. Scheme – Levy of betterment contribution – Request for cancellation of M.C. Council's resolution.

According to section 23 of the M.T.P. Act municipal councils which undertake T.P. Schemes can levy betterment contribution for in respect of properties whose market value may increase on account of the making of the Schemes. The betterment contribution shall be levied for such term of years and at such uniform percentage of the increase in the market value of the properties as may be fixed in the Scheme provided that the aggregate amount of contribution to be recovered shall not exceed one half of the maximum increase in value during those years. According to section 24 of the Act the market value of each property as on the date of the notification of the Scheme under section 10 or 12 of the Act has to be calculated first without reference to the improvements contemplated in the Scheme and in each of the financial years following the sanctioning of the Scheme the market value of such properties will be calculated. If in any financial year after the sanctioning of the Scheme the estimated market value of the properties at the prevailing rates exceeds the estimated market value for the basic year (i.e. year of notification under section 10 or 12) the municipal council shall levy on the difference betterment contribution according to the percentage fixed in the Scheme.

The Arbitrators for T.P. Schemes have to determine the market value of properties during the basic year. Rule 58 of the M.T.P. Rules provides that the market value in each of the financial year during which betterment contribution may be levied should be determined by the executive authority of the the municipality. If any property owner is not satisfied with the decision of the executive authority he can submit a petition to the executive authority for revision of the valuation, and if the party is not satisfied with the revised valuation also he can prefer an appeal to the Ml. Council

2 The Central Ward T.P. Scheme, Adipi Municipality was sanctioned in G.O.No.1367 P.H. dated 24-5-45. Clause 22(a) of the Scheme provides that betterment contribution may be levied for a term of 20 years at a uniform rate of 7½ per cent of the increase in value of the properties. The R.D.O., Coondapoor who was appointed as Arbitrator for the Scheme determined the properties which are liable to betterment contribution and estimated their market value as on 15-12-42 ie. the date of notification of the Scheme under section 12 of the M.T.P. Act. The levy and collection of betterment contribution for the years 1946-47, 1947-48 and 1948-49 were waived with the sanction of the Govt. when the levy for the year 1949-50 was fixed by the Ml. Commissioner Some of the property owners represented to the Govt that further works in the scheme area and claims for betterment levy might be dropped. The Govt did not agree to this. But they accepted the suggestions of the D.T.P. to revise the rate of betterment levy and to modify Schedule II of the Scheme. The Ml. Council also accepted these suggestions and the Scheme was accordingly varied

2/9-10 cf in G.O.No: 2817 Health dated 2-9-52. According to the revised Schedule the cost of the scheme 2/10 cf is Rs 1,50,000/- and out of this Rs 50,400/- has to be realised by way of betterment contribution P3 cf during the period of 11 years. For the fixation of market value for 1952-53 the Ml. council laid down the principles mentioned at 'A' on page 3 c.f. The Ml. commissioner fixed the marke P3 cf value of the properties in accordance with those principles. 9 out 158 assessees appealed against pp3-4 cf the betterment levy fixed on the above ~~ob~~ basis and the Ml. council allowed 7 appeals and reduced P1 cf the market value of the properties concerned to that fixed for 1962 by the Arbitrator. The result is that no betterment tax can be levied for 1952-53 in respect of those properties. For the reasons stated in paragraphs 3 to 6 on pp 4-6 c.f. the Ml. Commissioner considers that the resolution of the Ml. council allowing P3 cf the appeals in illegal and unwise passed beyond the powers P6 cf conferred on it, and he solicits orders of the Govt in the matter. The Ml. Chairman has suggested in his forwarding f6 cf remarks that the resolution of the council may be pp33 and 34 cf cancelled by the Govt. The D.L.B. and the D.T.P. 8f recommend cancellation of the resolution.

1. In the circumstances stated by 3-6 cf the Commissioner Nidipi Municipality the Ml. 20-21 cf Councils' resolution No: 16 dated 14-2-53 is an unwise one and if it ~~see~~ is implemented A the Ml. council will be put to heavy financial 13/6 loss. But the only ground on which the resolution vide 'M' on f.4 cf can be cancelled seems to be that by admitting the time-barred appeals the council has violated P1 cf rule 63(3) of the M.T.P. Rules. It seems that pp 3-6 cf other considerations urged by the Commissioner cannot be regarded as reasons for cancellation of the resolution. It is for orders whether the Ml. Council ... be asked to show cause why

4

the resolution should not be cancelled for the reason that it is illegal and whether it may be commended to the Metropolitan Council for adoption and Legal (Opinion) may see for remarks. CF

NRP
13-8-53

SK
13883

L.A. / Legal (Opn)

L.A.D.(A)

The Health Depts. note on page 1 ante may be perused and the file passed on to Leg (opn.) who. The proposals of Health are accepted.

T.P.
8.853

L
18.8.53

19.8.53

Legal (Opn)

LAD No. 40580-53-1A
20.8.53

LEGAL (OPINIONS) DEPARTMENT.

Rule 63(3) of the rules under the Town Planning Act, prohibits the Council from hearing an appeal presented after the date specified in the order under rule 62. Under the proviso to rule 63(3), the Council may admit an appeal within 30 days from the prescribed time if cause is shown to its satisfaction for not prefering it within the prescribed time. The Commissioner has pointed out that the appeals in this case were barred by time. It is presumed that the cases are not also covered by the proviso to rule 63(3). If this is correct, the Council had no power to admit or hear the appeals.

ASSISTANT SECRETARY 13708 25 AUG 1953 LEGAL DEPARTMENT

N plea

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It is therefore open to the Govt. to take action under section 36(1) of the M.D.M. Act as proposed by Health and concurred in by L.A.

Health
27.8.53.

KCMK
27/8/53

Legal a.o 13708/10-1
27/8/53

Health

Health(T)

Please see the note of Legal on pp 4-5 above. It is not known from the file whether the appeals were preferred within 30 days from the prescribed time as contemplated in the proviso to rule 63(3) of the M.T.P. Rules and whether the M.L. Council was satisfied with the reasons, if any, advanced by the appellants for the delay in preferring the appeals. The Commissioner, Indipi Municipality may be consulted on these points. The draft memo below is for approval.

MRP
1-9-53

SK
29.8

[Issued as Memo No.: 26305-T/53-Health dt 29-8-53]
[From the Commr, Indipi Mcy, Roc. 3965-49 dt 30-9-53]

With reference to the note of Legal in pp 4-5 ~~under~~ above please see the letter from the Commissioner Indipi Municipality on page 45 c/f. The file may be sent to Legal for further remarks.

Health W.o
26305-5T
12-10-53

MRP
10-10-53

SK
12/10

Legal (Opn

Legal(Opinions)Department.

"The report of the Commissioner at page 45 c.f. shows that only 2 of the appeals were time-barred but that they were filed within the 30 days' limit specified in the proviso to rule 63(3). It also shows that in each of these cases the parties were heard in person. It should therefore be presumed, unless the contrary is proved, that cause was shown to the satisfaction of the Council for not preferring the appeals in time. In view of these, rule 63(3) cannot be said to have been violated in this case.

19.10.53

K Clk 19/10/53 L.S.

Health

Health (T)

Please see the above note of Legal. The legal position may be explained to the Ml. Commissioner and he may be informed that the Govt cannot agree to his ~~request~~ suggestion for cancellation of the Council's resolution no: 16 dated 14-2-53.

The Ml. Council may be informed that though the resolution is ~~not~~ legally valid it was passed without regard to the interests of the Municipality and that such actions of the Ml. Council are deprecated by the Govt

L. A. may see for further remarks, if any, before a draft is put and

27471

regal no 16576/53
19.10.53

55691

SECRETARY 20 OCT 1953 HEALTH DEPARTMENT

the case is circulated :-

NRP
23-10-53

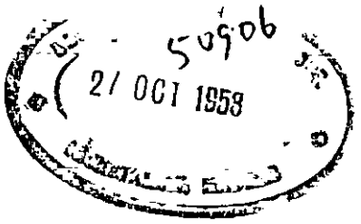
SK
26/10

LA

Health 0 26305.T/53.6

26.x.53

L.A.D.(A).



The previous note of this Deptt. is on page 4 ante.

The further notes of Legal and Health may be perused. In the circumstances, this Deptt. may agree with the views of Health in their note on page 6 ante. After orders are passed, the case may be returned to Health w.o.

NG
28.X.53

B
29/10/53

29/10/53

~~Secy~~

Health.

Aud. 50906-53-1A.

30. 10. 53

Health, Edn & L.A (HS)

Summary

The Mpl Council, Udipi, in its resolution No 16 dated 14.2.1953, reduced the market value of certain properties (liable for payment of betterment tax under the Central Ward T.P. scheme of the Mplty) to that fixed by the Arbitrator for the scheme for 1942. The result will be that those properties will not be liable to betterment levy for 1952-53. The Comm^r of the Mplty requests the Govt to cancel the resolution as the Council will be put to heavy financial loss if the resolution is to be implemented. On an examination of the proposal it is found that the resolution cannot be said to have violated the relevant T.P rule ~~as stated by the Comm^r~~. For details please see the notes at pp 1-7 ante. It is proposed to inform the Comm^r accordingly. It is also proposed to tell the Council that although its resolution in question is legally valid, it was passed without regard to the interest of the Mplty and that such actions of the Council ~~will~~ are ~~to~~ deprecated by the Govt. The draft below is for approval. May be circulated to M(H), M(L-A) & M(I.L & C).

pp 20-21 C/f

A

Legal opinion ante pp 6

Kms
5.11.53

7/11/53

1 How much the loss comes to by the reduction of the Betterment Tax

2. Can the Mpl Council pass another resolution restoring the original position. If so why can't it be carried to do so?

Sde
7/11/53

Submitted that there is no information regarding the exact amount of loss. The Comm^r may be asked to report the amount of loss.

As regards restoration of the original position, ~~the matter~~ ~~may be referred to the Council~~

Read on 15/11/53

R
'53

Exhibit 17

attention is invited to rule 8 of the Rules regarding proceedings of the Council at p.525 of the Madras Code, Vol.III. Under this rule no resolution of the Council shall be modified or cancelled within three months afte the passing thereof except at a special meeting convene for the purpose and by a resolution of the Council supported by not less than one half of the sanctioned number of members. This rule is not specific about modification or cancellation of the resolution three months after passing it. It seems that there is no objection. For orders whether the Council may be advised to cancel the resolution in question. Subject to orders a draft memo. is put up for approval.

14/11 15/11/53

Through Sri for advice or Addl. 18/11/53.

KMK 17/11/53

20-21 CF

The resolution under reference was passed on 14.2.53. As a period of three months has already elapsed, it is open to the ml. cl. to cancel or modify the resolution now at an ordinary meeting.

MG 18/11/53 18.11.53

21/11/53

OS. - M put up a summarising note for Dn.

FAS 23/11/53

Fit. 24.11.53

Note for circulation.

The Central Ward Town Planning Scheme, Udipi Municipality, was sanctioned in G.O.No.1567 P.H., dated 24-5-45. Clause 22(a) of the Scheme provides that betterment contribution may be levied for a term of 20 years at a uniform rate of 7½ per cent of the increase in value of the properties arrived at with reference to the market value of the properties as on the date of notification of the Scheme under section 12 of the Madras Town Planning Act, namely 15-12-42. The levy and collection of betterment contribution for the years 1946-47, 1947-48 and 1948-49 were waived with the sanction of the Govt. ~~In respect of the year 19~~ When the betterment levy for 1949-50 was fixed by the Municipal Commissioner, certain property owners represented to the Govt. that the levy might be dropped. The Govt did not agree to this. However in consultation with the Municipal Council, the T.P.Scheme was varied in 1952 with a view to revise the rate of betterment levy. According to this variation Rs.50,400 has to be realised by way of betterment contribution during a period of 17 years.

2. The Commissioner of the Municipality fixed the market value of the properties for the year 1952-53. Certain assessees appealed against the betterment levy so fixed ~~on the above basis~~. The Council allowed certain appeals and reduced the market value of the properties concerned to that fixed for 1942, with the result that no betterment tax could be levied for the year 1952-53. The Commissioner of the Municipality has ~~remarked~~ stated that the resolution of the Council is in excess of its powers, in that it admitted time barred appeals, and that the resolution will also result in heavy financial loss to the Municipality. He therefore requests the Govt to issue necessary orders. It is found that the resolution of the Council is not contrary to any statutory provision. But as stated by the Commissioner there will be loss to the Municipality if the resolution is implemented. It is therefore proposed to advise the Municipal Council to cancel its resolution. A draft Memo is put up below.

May issue after approval by M.(H), M.(L.A.) ~~and Finance~~

12

26305

and M (P.L+C) Form prepared only Draft may issue

TRB 9.12.53 Kms 10.12.53 14 11/12/53

A. Subbarao 12/12/53

M(H) 14/12

M(L.A) K. Rajaram 15/12

M(I L+C) N. Krishnaswamy 17/12/53

SECRETARY TO GOVERNMENT 15 DEC 1953 LEGISLATIVE

SECRETARY TO GOVERNMENT 17 DEC 1953 HEALTH, ECN. & LOCAL ADMN. DEPT.

[Joined as Memo No: 26305-H5-7 Health dated 18-12-54]

[From the Commr., Nellore Mdy, Roc. No. 3965-4 & 9 dated 16-5-54]

[From the Commr., Nellore Mdy, Roc. ...65-4-9 dt 30-6-54.]

[From the D.L.B., No. Dis: 29494-54 dt 12-7-54]

[From the D.T.P., No. Dis. 6897-54 dt 4-10-54]

The summarising note on pp 11-12 ante may be perused. With reference to the Memo on p 47 c.f. the Nidipi Municipal Council has resolved that as the Commissioner's letter on pp 1-6 c.f. does not contain information regarding the actual figures of loss which the Municipality might suffer on account of the non-levy of betterment tax and as the loss would be only Rs 243-6-6 a fresh report containing all the facts and approved by the council may be sent to the Govt with the information that the council is prepared to reconsider its decision if the Govt is not still satisfied with the validity of the resolution No: 16 dated 14-2-53 after going through the fresh report: The M.I. Commissioner sought clarification from the D.L.B. as to whether it was necessary to place the draft of a letter to be addressed to the Govt before the council for its approval in pursuance of the above resolution. The Inspector advised him that it was not ~~advisible~~ desirable to place the draft letter before the council. The Commissioner has now sought the orders of Govt on the resolution of the council mentioned at 'A' above

2: It is submitted that as already observed the M.L. Council's resolution dated 14-2-53 is legally valid. But the reasons why the M.L. Council was asked whether it was willing ~~advised~~ to cancel the resolution was that it was passed without regard to the financial interest of the council. In 1952 Govt examined in detail the representations made by the property owners affected by the scheme and they decided in consultation with the M.L. Council to vary the T.P. scheme. According to this variation the total ~~sa~~ amount of betterment contribution to be collected by the M.L. council during 17 years commencing from 1952-53 was limited to Rs. 50,400. This amount was calculated on the basis of the actual cost of the scheme. If the resolution of the M.L. Council is implemented the council will not be able to collect even the actual cost of execution of the scheme in full. The property owners may gain at the expense of the M.L. Council. Though a M.L. council ~~may~~ can lose in undertaking slum clearance schemes which are meant for the benefit of the poorer classes of the society there is no justification for foregoing betterment tax in respect of T.P. Schemes

because the land value increase on account of the execution of T.P Scheme. Apart from this in the case under consideration the property owners other than those whose appeals have been allowed by the Hon'ble ML. Council may accuse the council of discrimination of treatment. It is for orders whether the ML. Council may be put in possession of the above

Faeb
28.10.54

4/CS-64
29-10-54

JS
JK
29/10/54

The draft below is for approval.

2-11-54

4
3-11-54